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TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1960

No. 200

TRAYTON L. LATHROP, APPELLANT,

vs.

JOSEPH D. DONOHUE.

APPEAL FROM THE SUPREME COURT OF THE STATE OF WISCONSIN

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IN THE CIRCUIT COURT OF DANE COUNTY, STATE OF WISCONSIN

TRAYTON L. LATHROP, Plaintiff,

vs.

JOSEPH D. DONOHUE, Defendant.

COMPLAINT—Filed June 9, 1959

The above named plaintiff, for and as his complaint against the above named defendant, alleges as follows:

1. That the plaintiff is a resident of the City of Madison, Dane County, Wisconsin, and is engaged in the practice of law in said city, as member of the law firm of Thomas, Orr, Isaksen, Werner & Lathrop.

2. That the defendant is a resident of the City of Fond du Lac, Fond du Lac County, Wisconsin, and is engaged in the practice of law in said city.

3. That the defendant is and has been since June 1958 the treasurer of an organization known as the "State Bar of Wisconsin", which is more particularly described and referred to hereinafter.

4. That the plaintiff is a native of the State of Wisconsin, entered the University of Wisconsin in September 1940, attended the School of Letters and Science and the Law School, received a Bachelor of Arts degree with a major in political science in September 1943, was in military service [fol. 10] from September 1943 until June 1946, and attended the Law School of the University of Wisconsin, from June 1946 until February 1948, whereupon he received a degree of Bachelor of Laws from the University of Wisconsin. That in February of 1948, the plaintiff, after having complied with all of the requirements therefore, was licensed to practice law in the State of Wisconsin

and has been so licensed and has practiced law in the City of Madison, Wisconsin, ever since. That the plaintiff's only training and only means of livelihood is as a lawyer and that the plaintiff has no income outside of his income derived from the practice of law.

5. That the plaintiff was a member of an organization of lawyers in the State of Wisconsin known as the Wisconsin Bar Association for the years 1948 through 1956, both inclusive, and has been a member of an organization of lawyers known as the Dane County Bar Association during all of the time that he has been practicing law.

6. That prior to January 1, 1957, there was no coercion on the part of the State of Wisconsin or any of its agencies upon any attorney to support any organization of attorneys or any other organization.

7. That pursuant to a petition purportedly authorized by a majority of the members of the Board of Governors of the Wisconsin Bar Association, (the governing body of the Wisconsin Bar Association) which was signed by the president, president-elect, immediate past president, and treasurer of the Wisconsin Bar Association, and 28 other members of the Wisconsin Bar Association, and which recited that the Wisconsin Bar Association had only 3,206 [fol. 11] members, constituting approximately 68% of the total number of lawyers practicing in the State of Wisconsin, the Supreme Court of the State of Wisconsin, on June 22, 1956 directed the aforesaid petitioners to draft proposed rules "... for integration of the State Bar ..." and to submit them to the Supreme Court. That said direction appears in Vol. 273 of the Wisconsin Reports published by Callaghan & Company (1957) on pages 281-285, and is incorporated herein and made a part hereof by reference. That a proposed set of rules and by-laws creating an organization to be known as the State Bar of Wisconsin was filed by said petitioners with the Supreme Court on or about September 10, 1956.

8. That on December 7, 1956, the Supreme Court of the State of Wisconsin entered an order adopting, with

some modifications, the aforesaid proposed set of rules and by-laws, creating an organization to be known as the "State Bar of Wisconsin." Said order further appointed the existing officers of the Wisconsin Bar Association as officers of the State Bar of Wisconsin, and appointed a Board of Governors for the new organization, the Board of Governors being substantially different in organization and membership from the Board of Governors in the Wisconsin Bar Association. Said order provided that it was to be effective for a period of two years beginning on January 1, 1957. Said order and said rules and by-laws and the opinion of the court accompanying the same are set forth in Vol. 273 of the aforesaid Wisconsin Reports on pages vii to xxxvii, both inclusive, and are incorporated herein and made a part hereof by reference.

[fol. 12] 9. That said rules and by-laws required the plaintiff to enroll in the State Bar of Wisconsin and to pay dues to the treasurer of the State Bar of Wisconsin on the penalty of being deprived of his livelihood as a practicing lawyer, if he should fail to do so.

10. That in order to be able to continue to practice law, the plaintiff enrolled in said organization and paid the dues required thereby for the years 1957 and 1958.

11. That the State Bar of Wisconsin and its officers and committees began to function as an organization pursuant to said rules and by-laws on January 1, 1957 and have done so ever since. That the officers, governing body and committees of the Wisconsin Bar Association ceased to function after December 31, 1956. All files and property of the Wisconsin Bar Association were taken into possession of the State Bar of Wisconsin as of January 1, 1957, as plaintiff is informed and believes.

12. That on December 22, 1958, the Supreme Court of Wisconsin entered an order continuing in effect after December 31, 1958 for an indefinite period of time, the rules and by-laws above referred to. Said order and the opinion on which it is based is reported in Vol. 5 of the Wisconsin Reports, Second Series, (Advance Sheets) on pages 619 to 627, and is incorporated herein by reference. A copy

of the rules and the by-laws of the State Bar of Wisconsin as continued in effect by said order of December 22, 1958, and a copy of said opinion and order of December 22, 1958 are attached hereto as Exhibit A and made a part hereof.

[fol. 13] 13. That since January 1, 1957, the State Bar of Wisconsin has employed a lawyer, as full time executive director, as provided for in Article VI of the by-laws of the State Bar of Wisconsin above referred to, said director being the same director who was employed full time by the Wisconsin Bar Association prior to January 1, 1957. That a staff consisting of another lawyer and several stenographers are now employed by said State Bar of Wisconsin under the direction of said executive director. Said director and said staff are paid out of funds of the State Bar of Wisconsin which funds are made up of moneys received as dues obtained from attorneys pursuant to sections 2 and 3 of Article I of said by-laws and of moneys received from advertising in the State Bar Bulletin which is hereinafter referred to.

14. That as plaintiff is informed and believes, the income of the State Bar of Wisconsin from dues as aforesaid and from advertising as aforesaid is approximately $90,000 per year, of which approximately $10,000 is received from advertising and the balance is received from dues, as compared with the income of $45,000 received by the Wisconsin Bar Association in the year 1956, of which the income from advertising was approximately $5,000 and the balance was received from dues.

15. That the executive director and his staff, as a part of their employment by the State Bar of Wisconsin devote a substantial part of their time in assisting all of the chairmen of the standing committees provided for in said by-laws, as well as the Board of Governors and officers provided in said rules and by-laws.

[fol. 14] 16. That said executive director and his clerical staff as a part of their employment by the State Bar of Wisconsin publish bi-monthly, with the funds of the State

Bar of Wisconsin, a publication entitled "The Wisconsin Bar Bulletin" at 402 West Wilson Street, Madison, Wisconsin. That a publication of the same name and style was published by the Wisconsin Bar Association prior to January 1, 1957. That said publication is devoted to publishing papers and articles suggesting changes in the laws of the State of Wisconsin and of the United States as well as biographical articles, articles discussing the present status of the laws of the State of Wisconsin, and of the United States and to the advertising of books, publications, trust services, life and health insurance, and a variety of other matters.

17. That except for the coercion upon attorneys to become members thereof and to financially support it, the State Bar of Wisconsin functions substantially in the same manner and carries on substantially the same work as did the Wisconsin Bar Association, and as does the American Bar Association, although on a smaller scale than in the case of the latter association.

18. That one of the main objects and purposes of the State Bar of Wisconsin has been at all times since its organization to promote law reform, to make studies of an unlimited variety of the laws of the State of Wisconsin [fol. 15] and of the United States relating to the practice of law, and to the courts, such as the laws and constitutional provisions relating to court systems and the systems of selecting judges, tax codes, corporate codes, property laws, criminal codes, law among nations, laws and rules affecting compulsory membership in organizations of lawyers and, in furthering its objects and purposes, it makes and opposes proposals for changes in such laws and constitutional provisions and argues to legislative bodies and their committees and to the lawyers and to the people with respect to the adoption of changes in such codes, laws and constitutional provisions. That the State Bar of Wisconsin, its officers, governing body and committees have since January 1, 1957 been actively engaged in promoting law reform and making such studies, proposals and arguments. That the State Bar of Wisconsin

has used its employees, property and funds in active, unsolicited opposition to the adoption of legislation by the Legislature of the State of Wisconsin, which was favored by the plaintiff, all contrary to plaintiff's convictions and beliefs.

19. That the State Bar of Wisconsin, since January 1, 1957 has been engaged in a program for advancing public acceptance of the object and purposes of the organization through the press and other means. In this connection the State Bar of Wisconsin has been promoting a ladies auxiliary, by the use of its employees, property and funds.

20. That after a second request therefor had been made upon the plaintiff, and in order to be able to continue to engage in the profession for which he had been trained, the plaintiff unwillingly and under protest on or about March 6, 1959 paid to the defendant the sum of $15, by a certified check payable to the order of the defendant for that amount. That the plaintiff informed the defendant in a letter which accompanied said check that said check was sent under compulsion of sections 2 and 3 of Article I of the by-laws of the State Bar of Wisconsin and under [fol. 16] protest, and that he would hold the defendant personally liable for the amount thereof. That a copy of the plaintiff's aforesaid letter is attached hereto and made a part hereof, by reference, as Exhibit B. That the letter and said check were received by the defendant in the month of March, 1959, and said defendant cashed said check and received therefor the sum of $15.00 and commingled said $15.00 with the funds of the State Bar of Wisconsin, and that said $15.00 has not been repaid to the plaintiff in whole or in part.

The plaintiff bases this action on his claim that the defendant has unjustly received, held, and disposed of funds of the plaintiff in the amount of $15.00, which to the knowledge of the defendant were paid to the defendant by the plaintiff unwillingly and under coercion, and that such coercion was and is entailed in the rules and by-laws of the State Bar of Wisconsin continued in effect by the aforesaid order of the Supreme Court of the State of Wisconsin

dated December 22, 1958; and the said order insofar as it coerces the plaintiff to support the State Bar of Wisconsin, is unconstitutional and in violation of the Fourteenth Amendment of the Constitution of the United States and sections 1, 3, 4, 18 and 22 of Article I of the Constitution of the State of Wisconsin.

Wherefore, the plaintiff prays that the court enter judgment against the defendant Joseph D. Donohue, in favor of the plaintiff, in the amount of $15.00, plus interest thereon from March 31, 1959, that the plaintiff recover his [fol. 17] costs and disbursements made in this action, and that the plaintiff have such other relief as may be just.

Trayton L. Lathrop, Room 305, 122 West Washington Avenue, Madison 3, Wisconsin.

Of Counsel: Leon E. Isaksen, 122 West Washington Avenue, Madison 3, Wisconsin.

Duly sworn to by Trayton L. Lathrop, jurat omitted in printing.

[fol. 17a]

EXHIBIT "A" TO COMPLAINT

STATE BAR RULES

Rule 1

ORGANIZATION OF STATE BAR OF WISCONSIN

Section 1. Creation of association. All persons licensed to practice law in this state are hereby organized as an association to be known as the "State Bar of Wisconsin", subject to the provisions of the rules hereinafter set forth. These rules, which are adopted in exercise of the court's inherent authority over members of the legal profession as officers of the court, may be called "State Bar Rules". The words "State Bar" wherever used in these rules mean the State Bar of Wisconsin. The words "the Court" and "Court" wherever used in these Rules mean the Supreme Court of Wisconsin unless the context requires otherwise. The State Bar may, for the purpose of carrying out the

purposes for which it is organized, sue and be sued, enter into contracts, acquire, hold, encumber and dispose of real and personal property.

Section 2. Purposes. The purposes of the association shall be to aid the courts in carrying on and improving the administration of justice; to foster and maintain on the part of those engaged in the practice of law high ideals of integrity, learning, competence and public service and high standards of conduct; to safeguard the proper professional interests of the members of the bar; to encourage the formation and activities of local bar associations; to provide a forum for the discussion of subjects pertaining to the practice of law, the science of jurisprudence and law reform, and the relations of the bar to the public, and to publish information relating thereto; to the end that the public responsibilities of the legal profession may be more effectively discharged.

Rule 2

MEMBERSHIP

Section 1. Persons included in membership. The membership of the State Bar initially shall consist of all those persons who on the date when these rules take effect are licensed to practice law in this state, and after these rules take effect shall include also all those persons who become licensed from time to time to practice law in this state; subject in each case to due compliance with the conditions and requirements of membership. Residence in the state of Wisconsin shall not be a condition of eligibility to membership in the State Bar.

Section 2. Enrollment. Each person licensed to practice law in this state shall enroll in the State Bar by registering his name with the secretary of the association within sixty days after the effective date of these rules, in accordance with the requirements of the By-laws. Every person who becomes licensed, after these rules becomes effective, to practice law in this state shall enroll in the State Bar in like manner by registering his name with the secretary of the association within ten days after admission to practice.

Every change after such enrollment in any member's office address or residence address or principal office location shall be reported promptly to the secretary.

Section 3. Classes of membership. The members of the State Bar shall be divided into two classes known respectively as "active" members and "inactive" members. The class of active members shall include all members of the State Bar except the "inactive" members. The class of inactive members shall be limited to those persons who are eligible for active membership but are not engaged in the practice of law in this state and have filed with the secretary of the association written notice requesting enrollment in the class of inactive members. Judges of courts of record not engaged in the practice of law shall be inactive members. Any inactive member in good standing, except a judge of a court of record, may become an active member by filing with the secretary a written request for transfer to the class of active members and by paying the dues required of active members. No inactive members shall be entitled to practice law in this state or to hold office or vote in any election conducted by the State Bar. No person engaged in the practice of law in this state in his own behalf or as an assistant or employee of an active member of the State Bar, or occupying a position the duties of which require the giving of legal advice or service in this state shall be eligible for enrollment as an inactive member.

Section 4. Only active members may practice law. No individual other than an enrolled active member of the State Bar shall practice law in this state or in any manner hold himself out as authorized or qualified to practice law. Any court in this state may by special permission granted by it allow non-resident counsel to appear and participate in a particular action or proceeding in association with an active member of the State Bar of Wisconsin who appears and participates in such action or proceeding.

Section 5. Membership dues. Every active member shall pay membership dues in such amount not exceeding twenty dollars per year, as may be fixed in the By-laws; and

every inactive member shall pay membership dues in such amount, not exceeding ten dollars per year, as may be fixed in the By-laws. All dues shall be paid to the treasurer of the association and shall constitute a fund for the payment of the expenses of the association.

Section 6. Penalty for non-payment of dues. If the annual dues of any member remain unpaid at the expiration of ninety days from the time when such dues are due and payable, the membership of such member may be suspended by the board of governors in the manner provided in the By-laws; and no person whose membership is so suspended for non-payment of dues shall be entitled to practice law during the period of such suspension.

Section 7. Voluntary resignation of membership. Whenever a member of the State Bar in good standing files with the secretary written notice of such member's election to surrender his license to practice law and to terminate his membership in the association, such person shall thereupon cease to be a member of the State Bar, and his name shall be removed from the membership register.

Section 8. Avoidance of hardship. The board of governors may in any case in which to do otherwise would result in hardship or injustice, permit the retroactive enrollment of members and waive penalties prescribed for delinquency in the payment of membership dues.

Rule 3

OFFICERS

Section 1. Titles. Nomination and election. The officers of the association shall be a president, a president-elect, a secretary and a treasurer, who shall be nominated and elected respectively in the manner provided in the By-laws. Only active members of the State Bar residing in Wisconsin shall be eligible to serve as officers of the association. The term of office of each officer shall be one year and until the election and qualification of his successor; except in the case of interim officers appointed by the court to hold office until the annual meeting of the association next

following the effective date of these rules. The officers shall receive no compensation for their services.

Section 2. Duties of officers.

President: The president shall be the chief executive officer of the association, and shall preside at all meetings of the association and at all meetings of the board of governors. He shall appoint and announce as soon as possible after the annual meeting of the association in each year the membership of all committees for the ensuing year, the appointment of which shall not have been otherwise provided for. He shall be a member *ex officio* of every standing committee and every special committee.

President-elect: The president-elect shall perform the duties of the president during any absence or disability of the president; and at the expiration of the one-year term of office of the president the president-elect shall succeed to the office of president. In the event of the death or resignation of the president prior to expiration of his term of office, the vacancy shall not be filled and the duties of the office during the unexpired term shall be performed by the president-elect, and at the expiration of the term the president-elect shall succeed to the office of president in the same manner as if such vacancy in the office of president had not occurred.

Secretary: The secretary shall act as secretary at all meetings of the association, of the board of governors, and of the executive committee, and shall keep a record of all of the proceedings thereof. He shall notify officers and members of the committees of their election or appointment. He shall prepare and maintain a register of all active and inactive members of the State Bar and, subject to direction of the board of governors, shall send out notices of all elections and meetings; and he shall perform all other duties assigned to him by these rules or the By-laws or by the board of governors.

Treasurer: The treasurer shall receive, collect and safely keep, and under the direction of the board of governors disburse, all funds of the association; and render reports

of receipts and disbursements as required. He shall assist the Executive Committee in preparing the annual budget. He shall furnish a surety bond at the expense of the association in such amount as may be required by the board of governors.

Section 3. Delegation of duties. Any duties imposed by these rules or by the By-laws of the association upon the secretary or treasurer may be performed under the supervision of such officers respectively, by assistants or employees of the association.

[fol. 19]

Rule 4

BOARD OF GOVERNORS

Section 1. Composition of board. The affairs of the association shall be managed and directed by a board of governors consisting of the officers of the association and the immediate past-president of the association, who shall be *ex officio* members of the board, and twenty-nine members elected from the several State Bar districts hereinafter defined.

The rights and powers of the *ex officio* members of the board shall be the same as those of elected members.

All past-presidents of the Wisconsin Bar Association and all past-presidents of the State Bar of Wisconsin shall be entitled to floor privileges, but without vote.

Ten of the elected members of the board shall be elected from State Bar District No. 4, four members shall be elected from State Bar District No. 2, three members shall be elected from State Bar District No. 1, and two members shall be elected from each State Bar district other than No. 1, No. 2 and No. 4.

Section 2. State Bar districts. For the purpose of conducting elections of members of the board of governors, the state is divided into nine State Bar districts, as follows:

State Bar District No. 1, comprising the following counties: Green, Kenosha, Racine, Rock and Walworth.

State Bar District No. 2, comprising the following counties: Columbia, Dane, Dodge, Jefferson and Waukesha.

State Bar District No. 3, comprising the following counties: Crawford, Grant, Iowa, Juneau, La Crosse, Lafayette, Monroe, Richland, Sauk and Vernon.

State Bar District No. 4, comprising the following county: Milwaukee.

State Bar District No. 5, comprising the following counties: Calumet, Fond du Lac, Ozaukee, Sheboygan, Washington and Winnebago.

State Bar District No. 6, comprising the following counties: Adams, Green Lake, Langlade, Marathon, Marquette, Portage, Shawano, Waupaca, Waushara and Wood.

State Bar District No. 7, comprising the following counties: Brown, Door, Florence, Forest, Kewaunee, Manitowoc, Marinette, Oconto, and Outagamie.

State Bar District No. 8, comprising the following counties: Barron, Buffalo, Chippewa, Clark, Dunn, Eau Claire, Jackson, Pepin, Pierce, St. Croix, and Trempealeau.

State Bar District No. 9, comprising the following counties: Ashland, Bayfield, Burnett, Douglas, Iron, Lincoln, Oneida, Polk, Price, Rusk, Sawyer, Taylor, Vilas, and Washburn.

Section 3. Term. Qualifications. Nomination and election. The term of office of each member of the board of governors shall be two years, commencing at the beginning of the annual meeting of the association next following his or her election, except as otherwise provided in the By-laws in respect of members elected in the year 1957. No person shall be eligible to serve on the board of governors from any district unless he is an active member of the association and maintains in such district his principal office for the practice of law. No person shall be eligible to election to the board of governors for more than two consecutive terms. Not more than one governor shall be elected from the same county except that in District No. 2

two governors may be elected from Dane County and in District No. 4 ten governors may be elected from Milwaukee County.

The eligibility of any person to serve as a member of the board of governors from any state bar district shall cease upon removal of such person's principal office for the practice of law from such district. Nominations and elections of members of the board of governors shall be conducted in accordance with the provisions of the By-laws.

Section 4. Functions. The board of governors shall have general charge of the affairs and activities of the association. It shall have authority to fix the time and place of the annual meeting of members of the association; to make appropriations and authorize disbursements from the funds of the State Bar in payment of the necessary expenses of the association; to engage and define the duties of employees and fix their compensation; to receive, consider and take action on reports and recommendations submitted by committees, sections and the assembly of members of the association at any annual or special meeting; to arrange for publication of an official State Bar bulletin or journal; to conduct investigations of matters affecting the association, or the practice of law or the discipline of members of the association; to fill vacancies however arising, in the membership of the board of governors, or in any office except the office of president, and in each case the person appointed to fill such a vacancy shall hold for the unexpired term; and to adopt by-laws and regulations, not inconsistent with these rules, for the orderly administration of the association's affairs and activities.

The board of governors shall meet at least four times each year. Fifteen members present at any meeting shall constitute a quorum.

The board of governors shall establish and maintain standing committees having respectively the functions defined in the By-laws, as follows:

Committee on Legal Education and Bar Admissions
Committee on Post-Graduate Education

Committee on Administration of Justice
Committee on Judicial Selection
Committee on Professional Ethics
Committee on Public Services
Committee on Inter-Professional and Business Relations
State Bar District Committees on Grievances
Committee on Legislation
Committee on Legal Aid
Committee on Unauthorized Practice of Law
Committee on State Bar Bulletin

The board of governors shall have authority also to create additional standing committees and such special committees as may be deemed desirable from time to time, and to define the authority and functions of such standing and special committees.

[fol. 20] The board of governors shall establish and maintain sections for carrying on the work of the association, each within its proper field of study defined in its by-laws, as follows:

Section of Corporation and Business Law
Section of Family Law
Section of House Counsel
Section of Insurance, Negligence and Workmen's Compensation Law
Section of Labor Relations Law
Section of Military Law
Section of Real Property, Probate and Trust Law
Section of Taxation

Each section shall consist of members who voluntarily enroll therein because of a special interest in the particular field of law to which the section is dedicated. New sections may be established and existing sections may be consolidated or discontinued by the board of governors from time to time. Each section shall be governed by by-laws not inconsistent with State Bar Rules or State Bar By-laws. Section by-laws and amendments thereto shall become effective upon approval of the board of governors.

Whenever any committee or section of the association expresses publicly any conclusion or opinion not previously approved by the board of governors or by the members of the association, such expression shall indicate that the conclusion or opinion is that of the section or committee from which it emanates, rather than the conclusion or opinion of the State Bar.

The members of the board of governors shall receive no compensation for services to the association, but they and also the members of committees and the officers and directors of sections may be reimbursed for necessary expenses incurred in the performance of their duties.

Rule 5

EXECUTIVE COMMITTEE

Section 1. Number of Members. Selection. There shall be an executive committee consisting of the president, the president-elect, the immediate past president and five additional members selected annually by the board of governors from among their number.

Section 2. Chairman. Minutes of meetings. The president shall preside at meetings of the executive committee and the secretary shall keep minutes of its proceedings. The minutes of each meeting of the executive committee shall be submitted to the next meeting of the board of governors.

Section 3. Powers. Unless otherwise ordered by the board of governors, the executive committee may exercise all the powers and perform all the duties of the board between meetings of the board; but shall not amend the By-laws, make rules or regulations governing nominations or elections, or prescribe regulations for proceedings before grievance committees. The executive committee shall prepare an annual budget for submission to the board of governors and shall perform such other duties as the board of governors may from time to time prescribe.

Section 4. Meetings. The executive committee shall meet at the call of the president, or upon call of the secre-

tary upon written application of three members, upon forty-eight hours' notice by mail, telegraph or telephone. Five members shall constitute a quorum. Action of a majority of the members present at a meeting shall constitute action by the committee.

Rule 6

MEETINGS OF THE ASSOCIATION

Section 1. Annual meeting. There shall be an annual meeting of members of the association during the month of June in each year. The board of governors shall determine the time and place of the annual meeting, and shall arrange therefor a suitable program which shall include an address by the president. Reports of officers and reports of proceedings of the board of governors subsequent to the last previous annual meeting shall be presented to the meeting.

Section 2. Special meetings. Special meetings of the members of the association may be called by the board of governors or the president; and shall be called by the secretary whenever he receives a petition signed by not less than 300 members of the association requesting such meeting and specifying the purpose thereof, and the meeting shall be convened accordingly within forty-five days after the secretary receives such petition. It shall be the duty of the board of governors to fix the time and place of every special meeting, to make suitable arrangements therefor, and to cause the secretary to give notice thereof to the members.

Section 3. Quorum. One hundred active members present in person at any annual or special meeting shall constitute a quorum. No member shall be entitled to be represented by proxy.

Section 4. Notice. Notice of the time and place of every annual meeting of members shall be mailed by the secretary to each active member of the association or published in the official bulletin of the State Bar at least thirty days prior to the meeting.

Notice of the time, place and purpose of every special meeting of members shall be mailed by the secretary to each active member of the association or published in the official bulletin of the State Bar at least ten days prior to the meeting.

Section 5. Recommendations to board of governors. The members present in person at any annual or special meeting of members of the association, herein also referred to as the "assembly", may consider and adopt any proposal pertinent to the purposes of the association; provided that [fol. 21] every such proposal which is adopted shall constitute a recommendation from the assembly to the board of governors, and shall be referred accordingly by the presiding officer to the board of governors for such action as the board of governors may deem proper, except as otherwise required in the case of a direction for a referendum under the provisions of Rule 7, or in the case of a proposal for amendment of these rules.

Rule 7

REFERENDUM PROCEDURE

Section 1. Governors may initiate. The board of governors may at any time, by the affirmative vote of two-thirds of its members, refer to the active members of the association for determination by mail ballot, any question of association policy.

Section 2. Assembly may initiate. The board of governors shall, in like manner, submit for determination by the active members of the association, any question of association policy, including proposed changes in the Rules or By-laws of the association, whenever directed so to do by resolution adopted at any annual or special meeting of the association by the affirmative vote of not less than two hundred members; provided, that no such resolution directing the board of governors to propose changes in the Rules shall be effective unless adopted at two consecutive meetings of the assembly.

Section 3. Members may initiate by petition. The board of governors shall, in like manner, submit the determina-

tion, by the members of the association. any question of association policy, including proposals for changes in the Rules or By-laws, whenever directed so to do by a petition signed by not less than three hundred active members of the association.

Section 4. Procedure. Ballots for use in any such referendum shall be prepared, distributed, returned and counted in accordance with regulations prescribed by the board of governors. The result of a referendum, as determined by a majority of the votes cast, when duly ascertained shall be published by the board of governors in the official Bar Bulletin, and shall control the action of the association, the board of governors, the officers, sections and committees.

Rule 8

DISBURSEMENTS

The board of governors shall make necessary appropriations for disbursements from the funds in the treasury to pay all necessary expenses of the association, its officers and committees. It shall be the duty of the board of governors to cause proper books of account to be kept and to procure an annual audit thereof by a certified public accountant. At each annual meeting of the association the board of governors shall present a financial statement showing assets, liabilities, receipts and disbursements of the association; and a copy of such statement shall be filed with the Clerk of the Supreme Court and published in the official publication of the association prior to the annual meeting.

Rule 9

RULES OF PROFESSIONAL CONDUCT

The rules of professional conduct set forth from time to time in the Canons of Professional Ethics of the American Bar Association, as supplemented or modified by pronouncements of the court, shall be the standards governing the practice of law in this state.

Rule 10

STATE BAR DISTRICT GRIEVANCE COMMITTEES

Section 1. Composition and selection. There shall be a State Bar District Committee on Grievances, herein called "district committee", for each of the State Bar districts defined in Rule 4, consisting of not less than three nor more than fifteen members of the association residing in such district. The State Bar District in which the members of a district committee reside is herein called the "district of the committee". The members of each district committee and the chairman thereof shall be appointed by the president of the association with the approval of the members of the board of governors in the district of the committee. Initially one-third of the members of the committee shall be appointed for a term of one year, one-third for a term of two years, and one-third for a term of three years; and thereafter the term of office of each successor member shall be three years.

Section 2. Duties. It shall be the duty of each district committee to receive and investigate complaints of alleged misconduct on the part of lawyers residing or having their principal offices in the district of the committee, and also misconduct committed within the district by any lawyer regardless of residence. The committee shall have responsibility also, to the extent herein defined, for investigating or causing to be investigated all complaints of professional misconduct on the part of members of the State Bar residing or having their principal offices outside the district of the committee, whenever a request for such an investigation is received from the board of governors, executive committee or president of the association, or from the State Bar Commissioners, or from a judge of any court in this state, or from the district attorney of any county in the state. The committee shall have responsibility also for investigating and reporting on the merits of any petition for reinstatement to the practice of law referred to the committee under the provisions of Sections 6 or 7 of this Rule.

Section 3. Committee procedure. The work of the committee shall be carried on under the supervisory control of the board of governors. The committee shall meet on call of the chairman; a majority of the members shall constitute a quorum; and each committee member shall perform such part of the investigation in any case as may be delegated to him by the chairman. The committee may also utilize in any investigation the services of investigators and counsel provided by the board of governors.

[fol. 22] Whenever it appears, upon preliminary consideration of a complaint, that the facts do not support a charge of misconduct and do not warrant disciplinary action, the committee may dismiss the complaint without proceeding further, but in that event shll notify the complainant accordingly. If it appears upon such preliminary consideration that the complaint may have merit and is worthy of a further investigation, the committee shall cause the complaint to be reduced to writing, and also to be signed by the complainant if practicable. A copy shall forthwith be sent by certified mail to, or personally served upon, the person complained of, herein called the "respondent." It shall be the respondent's duty to submit to the committee within fifteen days after the date of mailing such complaint his written answer thereto, containing a full statement of the material facts in relation to the acts of misconduct alleged in the complaint; and it shall be the respondent's duty also, if required by the committee to do so, to appear in person before the committee and answer oral or written interrogatories concerning the acts of misconduct alleged in the complaint; and any deliberate failure on the part of the respondent to submit to the committee his written answer to a complaint, or to appear before the committee and answer interrogatories when requested by the committee to do so, and any willful misrepresentation or concealment of material facts in relation to the matter complained of, shall be grounds for disciplinary action. Before the investigation is concluded in any case the respondent shall be afforded an opportunity to appear before the committee and to present evidence on his behalf.

If after investigation in any case the committee finds that the facts pertaining to the matter complained of do

not merit disciplinary action, it shall file a written report to that effect and shall notify the complainant, the respondent and the secretary of the State Bar that the complaint has been dismissed. If after investigation in any case the committee concludes that the facts warrant a complaint by the State Bar Commissioners under applicable provisions of the Wisconsin statutes, the committee shall make a report of its proceedings, including a summary of the material facts and the recommendations of the committee; and such report shall be filed with the State Bar Commissioners and a copy shall be filed with the secretary of the State Bar.

In the case of any complaint against a respondent residing or having his principal office outside the district of the committee, which is referred to a district committee for investigation, the committee's responsibility shall be limited to investigation thereof within the district of the committee; and the information obtained from such investigation and the files pertaining thereto shall be disposed of as follows:

(a) In the case of complaints referred by the board of governors or executive committee or president, the information and files shall be transmitted to the board of governors.

(b) In the case of complaints referred by the State Bar Commissioners, the information and files shall be transmitted to the State Bar Commissioners.

(c) In the case of complaints referred by any judge or district attorney, the information and files shall be transmitted to the chairman of the district committee for the district in which the person complained of resides or has his principal office, unless otherwise ordered by the board of governors or executive committee; and the latter district committee shall proceed with the matter by completing the investigation and making its report.

Section 4. H[illegible]ings not open to public. Files confidential. The public shall not be admitted to any hearing or investiga-

tion before the committee in relation to charges of professional misconduct; and all of the committee records and files pertaining to such charges in any case shall be treated as confidential, and shall not be open to inspection by other persons, except in accordance with such regulations as may be prescribed by the board of governors, or as may be ordered by the Supreme Court.

Section 5. Improper conduct of judicial officers. It shall be the duty of each district committee to receive complaints of improper conduct on the part of members of the judiciary within the district of the committee. Upon receipt of any such complaint the committee shall make such investigation as it deems appropriate, and shall in its discretion report to the board of governors its findings and recommendations for such action as the committee deems proper.

Section 6. Petition for reinstatement. Investigation. Whenever any person who has been disbarred from the practice of law or suspended for professional misconduct petitions the court for reinstatement, a copy of the petition shall be filed by the petitioner with the secretary of the State Bar; and the board of governors thereupon shall cause an investigation of the petitioner's eligibility for reinstatement to be made by a district committee. It shall be the duty of the petitioner to appear before the committee in person, if requested to do so, and to answer oral or written interrogatories relative to his eligibility for reinstatement; and failure on his part to appear and answer interrogatories, or any concealment or misrepresentation in that regard shall be grounds for denying the petition. Upon completion of the investigation, the report of the committee containing its findings and recommendations with respect to the petitioner's eligibility for reinstatement, and also the recommendations of the board of governors with respect thereto shall be filed by the board of governors with the Clerk of the Court and a copy thereof shall be filed with the secretary of the State Bar; and hearing upon the petition shall be deferred until such report and recommendations shall have been filed. The petitioner shall be required to reimburse the State Bar for the reasonable expense of the investigation.

Section 7. Petition for reinstatement after suspension for non-payment of dues. Whenever any member of the State Bar applies to the association for reinstatement after having been suspended for non-payment of membership dues, the application shall not be granted if it appears that the applicant's membership dues have been in arrears for three consecutive years, unless reinstatement is ordered by the court. If the applicant in such case petitions the court [fol. 23] for reinstatement, the petition shall set forth a description of the petitioner's business and professional activities during the period of suspension and shall state whether or not such activities have included the practice of law and, if so, the particulars in that regard; and the petitioner shall file a copy of the petition with the secretary of the State Bar and shall pay the full amount of membership dues then in arrears, including accrued penalties; and thereupon the board of governors shall cause an investigation to be made by a district committee concerning the petitioner's business and professional activities during the period of his suspension and his eligibility for reinstatement as a member of the State Bar. It shall be the duty of the petitioner to appear before the committee in person, if requested to do so, and to answer oral or written interrogatories relative to his eligibility for reinstatement; and failure on his part to appear and answer interrogatories, or any concealment or misrepresentation in that regard, shall be grounds for denying the petition. Upon completion of such investigation the committee's report containing its findings and recommendations with respect to the petitioner's eligibility for reinstatement, and also the recommendations of the board of governors with respect thereto, shall be filed by the board of governors with the Clerk of the Court; and hearing of the petition for reinstatement shall be deferred until such report and recommendations shall have been filed. The petitioner shall be required to reimburse the State Bar for the reasonable expense of the investigation.

Section 8. Petition for late enrollment. No person required by the provisions of Rule 2 to enroll in the State Bar who fails to enroll within one year after becoming eligible

for enrollment shall be permitted to enroll thereafter unless enrollment is ordered by the court. If the applicant in such case petitions the court for an order directing enrollment, the petition shall set forth a description of the petitioner's business and professional activities during the period of default in enrollment and shall state whether or not such activities have included the practice of law and, if so, the particulars in that regard; and the petitioner shall file a copy of the petition with the secretary of the State Bar, and thereupon the board of governors shall cause an investigation to be made by a district committee concerning the petitioner's business and professional activities during the period of his default in enrollment. It shall be the duty of the petitioner to appear before the committee in person, if requested to do so, and to answer oral or written interrogatories relative to such activities, and failure on his part to appear and answer interrogatories, or any concealment or misrepresentation in that regard, shall be grounds for denying the petition. Upon completion of such investigation the committee's report containing its findings and recommendations with respect to the petitioner's activities during the period of default, and also the recommendations of the board of governors with respect thereto, shall be filed by the board of governors with the clerk of the court; and hearing of the petition for enrollment shall be deferred until such report and recommendations shall have been filed. The petitioner shall be required to reimburse the State Bar for the reasonable expense of the investigation.

Section 9. Committee expenses. Members of any district committee shall be entitled to reimbursement for actual expenses incurred in connection with their duties, and the chairman shall be entitled to employ, at the expense of the State Bar such clerical help and reportorial service in any matter before the committee as may be authorized by the board of governors or the executive committee.

Section 10. Statutory authority of State Bar Commissioners and Milwaukee Bar Association not affected. It is not intended that those Rules shall supersede the authority conferred by section 256.28 of the Wisconsin Statutes on the

State Bar Commissioners or on the Milwaukee Bar Association.

Rule 11

AMENDMENT

Section 1. Amendment of Rules. Proposals for amendment or abrogation of provisions of the State Bar Rules may be presented to the court by (i) petition of the board of governors; or (ii) petition of the assembly in respect of changes approved by vote of a majority of members present at two consecutive meetings of the association. Hearing upon such a petition will be pursuant to notice in such manner as the Court may direct.

Section 2. Amendment of By-laws. The provisions of the By-laws of the State Bar of Wisconsin appended hereto shall be subject to amendment or abrogation by (i) resolution adopted by vote of two-thirds of the members of the board of governors, or (ii) action of the members of the association expressed through the referendum procedure defined in Rule 7. When any change in the By-laws has been made by the board of governors the secretary shall publish notice thereof, including a copy of the amendatory resolution, in the official bulletin of the State Bar, and he shall file a certified copy thereof with the clerk of the court. A petition for review of any such change in the By-laws will be entertained by the court if signed by twenty-five or more active members of the association and filed with the clerk of the court within sixty days after publication of notice of such change. Hearing upon such a petition will be pursuant to notice in such manner as the court may direct.

Rule 12

EFFECTIVE DATE OF RULES

The State Bar Rules and also the provisions of Article I to VII inclusive of the By-laws of the State Bar of Wisconsin appended to these rules shall take effect on January 1, 1957. The legal existence of the association shall be deemed to have commenced on June 22, 1956.

[fol. 24]

State Bar By-laws

Article I

Membership

Section 1. Membership register. The association shall maintain a membership register for the enrollment of members of the State Bar, which shall contain as to each member a record showing his address, the date of his registration, the class of his original membership and each subsequent change of membership status, and such other information as may be required by the board of governors from time to time.

Every member shall enroll in the State Bar by signing and filing in the office of the association a registration card showing the following information concerning the registrant:

(a) Full name.

(b) Residence address.

(c) Office address. Location of principal office.

(d) Date of admission to practice in Wisconsin.

(e) Date of admission to practice in any state or states other than Wisconsin.

(f) Date and place of birth; and in the case of a naturalized person, the date and place of naturalization.

(g) Particulars regarding any previous suspension or revocation of right to practice law in any state or country.

(h) Name of law school and year of graduation.

Every change after enrollment in respect of any of the matters above specified shall be promptly reported to the secretary. Communications from the association to any member shall be sent to the latest address furnished by such member. At the time of enrollment of each member admitted to practice after these rules take effect, the associa-

tion shall deliver to the new member a copy of the lawyer's oath set forth in sec. 256.29 Wisconsin Statutes, as follows:

"I will support the constitution of the United States and the constitution of the state of Wisconsin;

"I will maintain the respect due to courts of justice and judicial officers;

"I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, or any defense, except such as I believe to be honestly debatable under the law of the land;

"I will employ, for the purpose of maintaining the causes confided to me, such means only as are consistent with truth and honor, and will never seek to mislead the judge or jury by any artifice or false statement of fact or law;

"I will maintain the confidence and preserve inviolate the secrets of my client and will accept no compensation in connection with his business except from him or with his knowledge and approval;

"I will abstain from all offensive personality and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged;

"I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay any man's cause for lucre or malice. So help me God."

Section 2. Membership dues. Membership dues for each calendar year shall be due and payable to the treasurer on the second day of January of such year. Every active member shall pay annual dues of fifteen dollars, except that for the calendar year of admission to the Bar of this state or any other state and for the next succeeding four calendar years the dues shall be eight dollars per year. Every inactive member shall pay annual dues of five dollars. In the case of persons admitted to practice law in this state after

the State Bar Rules become effective, membership dues for the full calendar year in which such admission occurs shall be paid at the time of enrollment in the State Bar. The board of governors may exempt any member serving in the armed forces of the United States at the beginning of any year from the payment of membership dues for such year provided satisfactory proof of exemption is submitted to the secretary prior to April 1 of such year. (As amended February 21, 1957)

Section 3. Penalty for non-payment of dues. If the membership dues of any member for any year are not paid prior to the first day of February of such year, notice of non-payment shall be mailed to the member at his business address shown in the membership register. If such dues are not paid prior to the first day of March of such year, thereupon a second notice of the arrears shall be sent to the member by registered or certified mail. On the first day of April in each year the secretary shall deliver to the board of governors a list of all members whose dues remain unpaid after notification in the manner aforesaid, accompanied by proof of mailing the required notice of arrears in each case. Thereupon the board of governors by resolution shall suspend the membership of each such dues-delinquent member, and shall file with the clerk of the Supreme Court a certified copy of the resolution declaring the suspension, and shall mail a copy thereof to each person whose membership has been thereby suspended. Whenever a member so suspended for non-payment of membership dues makes full payment of the amount owing, and in addition thereto the sum of five dollars as a penalty, he shall be re-instated as a member by the board of governors, and the fact of reinstatement shall be certified by the secretary to the Clerk of the Supreme Court. Provided however in the case of any person whose membership dues shall have been in arrears for a period of three or more consecutive years, no application for reinstatement shall be granted unless ordered by the court pursuant to the provisions of Section 7 of State Bar Rule 10. Provided further however, that no person whose membership is suspended for the non-payment of dues shall be entitled to practice law during the period of such suspension.

Article II

OFFICERS

Section 1. Nominations. The president-elect, the secretary and the treasurer of the State Bar shall be elected from a list of candidates nominated in the manner herein prescribed. A committee of nine members to nominate candidates for said offices to be voted on at the next annual election shall be appointed by the president of the association with the approval of the board of governors on or before the first day of September in each year. Such nominating [fol. 25] committee shall consist of one governor from each of the State Bar districts defined in the State Bar Rules. The report of the committee shall be filed in the office of the secretary on or before the thirty-first day of January of the year of the election. Such report shall name two or more candidates nominated by the committee for the office of president-elect, two or more candidates nominated for the office of secretary and two or more candidates nominated for the office of treasurer. Other persons may be nominated for any of said offices by petition signed in the case of each candidate by not less than fifty active members of the association, and filed in the office of the secretary on or before the second Friday of April of the year of the election, provided that before the filing of such petition a statement shall be endorsed thereon by the nominee to the effect that he consents to nomination for the office designated in the petition.

Section 2. Voting and canvass of ballots. The provisions of Sections 4 to 8 inclusive of Article III of these By-laws relating to the election of members of the board of governors shall be applicable also to the election of officers.

Section 3. Commencement of term of office. Officers of the association shall take office at the conclusion of the annual meeting next following their election.

Section 4. Other officers. The board of governors may appoint one or more assistant secretaries and one or more assistant treasurers, as may be required from time to time.

Section 5. Location of principal office. The principal office of the association shall be located in the city of Madison, Wisconsin.

Section 6. Interim officers and governors. The officers and board of governors of the association to serve during the period from the effective date of the State Bar Rules until their successors are elected and take office will be appointed by the Court.

Article III

BOARD OF GOVERNORS

Section 1. Qualifications of electors. Each member of the board of governors shall be elected by the active members of the State Bar eligible to vote in the State Bar District in which such member of the board of governors has his principal office for the practice of law.

Section 2. Term. At the annual election in the year 1957 members of the board of governors, herein also called "governors", shall be elected in the several State Bar Districts as follows: One governor shall be elected for a term of one year and one governor shall be elected for a term of two years in each of the Bar Districts numbered as follows: No. 3, No. 5, No. 6, No. 7, No. 8 and No. 9; one governor shall be elected for a term of one year and two for a term of two years in Bar District No. 1; two governors shall be elected for a term of one year and two for a term of two years in Bar District No. 2; five governors shall be elected for a term of one year and five for a term of two years in Bar District No. 4.

At the annual election on each year subsequent to 1957 the members entitled to vote in each Bar District shall elect a governor for a term of two years to succeed each governor from such District whose term of office expires in that year.

Section 3. Nomination petitions. Nominations for the office of governor shall be by petition signed in respect of each nominee by not less than ten persons entitled to vote for such candidate. Blank forms for that purpose shall be supplied by the secretary of the association on request.

Nomination petitions for candidates to be voted on at the annual election in any year shall be filed in the office of the secretary not later than the second Friday of April of such year, provided that before the filing of such petition a statement shall be endorsed thereon by the nominee to the effect that he consents to nomination for the office designated in the petition. No nominating petition for governor shall be filed on behalf of any member practicing in the same county in which another member is a governor whose term does not expire at the next annual meeting.

Section 4. Voting list. On the last Friday of April in each year the voting list shall close for the election in that year. Every active member of the association in good standing on that date shall be entitled to vote in the State Bar District in which his principal office for the practice of law is located, for officers of the State Bar and for the governor or governors for such district to be elected that year.*

Section 5. Mailing of ballots. On or before the first Friday of May in each year the secretary shall prepare and mail two ballots to each active member of the State Bar entitled to vote at the annual election. One form of ballot sent to persons entitled to vote in each State Bar District shall contain the names of the nominees for the several offices of the State Bar to be filled at the annual election, and a separate form of ballot shall contain the names of the nominees for the office of governor from such district. If any such person entitled to vote in such election fails to receive his ballots, or if it appears that any such ballot has been lost or destroyed, a new ballot shall be furnished to him by the secretary. The third Friday of May in each year shall be the last day for voting in such election and no ballots received after that date shall be counted.

Section 6. Voting of ballots. No ballot shall be counted unless returned to the office of the secretary of the association on or before the last day for voting, in an envelope furnished by the secretary marked "Ballot".*

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* As amended April 12, 1957.

Section 7. Checking and custody of ballots. The secretary shall have custody of the ballots after they are voted until they are canvassed. As such ballots are received by the secretary they shall be consecutively numbered and segregated as to State Bar Districts from which received. The envelope containing the ballot shall be retained by the secretary unopened until the tellers canvass the ballots.*

Section 8. Canvass of ballots. The ballots shall be canvassed by three tellers appointed by the president, with the assistance of a certified public accountant selected by the tellers. The tellers may delegate to such certified public [fol. 26] accountant the duty of counting and tabulating the votes cast for each candidate and may accept the results of such count as certified by such accountant. The candidate receiving the highest number of votes for each office shall be declared elected. In case of a tie vote the tellers shall determine the successful candidate by lot drawn by the candidates or by the tellers if authorized by the candidates. Promptly upon the conclusion of the canvass the tellers shall certify the results to the secretary of the association, who shall forthwith announce the result of the election and notify each candidate as to whether or not he has been elected. Upon completion of the canvass the tellers shall replace all ballots in a locked receptacle where they shall thereafter remain subject to the further order of the board of governors.

Section 9. Meetings of board of governors. There shall be a regular meeting of the board of governors in each year at the time of the annual meeting of members of the State Bar, and also at the time of the annual mid winter meeting of members of the State Bar. There shall be a regular meeting also during the month of April and during the month of September in each year. The meetings in the months of September and April shall be on the second Friday of each of those months unless changed to other dates in said months by action of the board of governors. The time and place of every meeting of the board of governors shall be determined by the board except special meetings called by the president.

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* As amended April 12, 1957.

Special meetings of the board may be held at any time upon call of the president, and shall be called by him upon written request signed by three members of the board. Notice of the time and place of regular and special meetings of the board shall be given to each member by the secretary by mail, telegram or telephone at least five days before the meeting. At any regular or special meeting of the board any business may be transacted which is within the power of the board, whether or not specified in the call or notice of the meeting. Action of the board may be taken without a meeting by resolution signed by a two-thirds majority of the members of the board, provided that such resolution shall have been first submitted by the proponents thereof to all of the members of the board.

Section 10. Members of Judicial Council. Upon expiration of the term of office of each member of the judicial council selected by the Wisconsin Bar Association pursuant to the provisions of sec. 251.181 Wisconsin Statutes, his successor in such office shall be elected from the active members of the State Bar in the manner provided for the election of officers.

Section 11. American Bar Association delegates. Upon expiration of the term of office of each member of the House of Delegates of the American Bar Association, selected by the Wisconsin Bar Association, his successor in such office shall be appointed by the board of governors, and every vacancy thereafter occurring in such office shall be filled in like manner.

Article IV

STANDING COMMITTEES

Section 1. Appointment. Number of members. Term. Each of the standing committees referred to in this article shall consist of nine members, unless a different number be fixed by the board of governors; and the members of each such committee shall be appointed by the president with the consent of the board of governors, for a term of three years, so arranged that the term of office of only one-third of the members shall expire in any year. The chairman of each committee shall be designated by the president for a term of one year. In the event of any vacancy in any

committee it shall be filled by appointment by the president for the unexpired term. Members of committees shall serve until the appointment of their respective successors. Unless otherwise specified in these By-laws or by vote of the board of governors, a majority of the members of any committee shall constitute a quorum for the transaction of business. Each committee shall keep a record of its meetings and proceedings and shall submit an annual report to the board of governors. The board of governors may assign powers or duties to any standing committee in addition to those hereinafter set forth.

Section 2. Committee on legal education and bar admissions. This committee shall make continuing studies of the curricula and teaching methods employed in law schools, and of standards and methods employed in determining the qualifications of applicants for admission to the bar; and whenever requested by the State Bar Commissioners shall assist in the investigation of the qualifications of persons seeking admission to the bar.

Section 3. Committee on post-graduate education. This committee shall formulate and promote programs designed to afford to the members of the State Bar suitable opportunities for acquiring additional professional knowledge, training and skill, through publications, lectures and discussions at regional meetings of association members and law institutes, and through correspondence course study.

Section 4. Committee on administration of justice. This committee shall study the organization and operation of the Wisconsin judicial system and shall recommend from time to time appropriate changes in practice and procedure for improving the efficiency thereof; and in that connection shall examine all legislative proposals for changes in the judicial system.

Section 5. Committee on judicial selection. This committee shall study and collect information pertaining to judicial selection, tenure and compensation, including retirement pensions, and shall report from time to time to the association with respect thereto.

Section 6. Committee on professional ethics. This committee shall formulate and recommend standards and meth-

ods for the effective enforcement of high standards of ethics and conduct in the practice of law; shall consider [fol. 27] the Canons of Ethics of the legal profession and the observance thereof, and shall make recommendations for appropriate amendments thereto. The committee shall have authority to express opinions regarding proper professional conduct, upon written request of any member or officer of the State Bar.

Section 7. Committee on public services. This committee shall prepare and present to the board of governors plans for advancing public acceptance of the objects and purposes of the association; and shall have responsibility for the execution of such plans as are approved by the board of governors. Such plans shall include arrangements for disseminating information of interest to the public in relation to the functions of the departments of government, the judicial system and the bar; and to that end the committee may operate a speakers' bureau and employ the facilities of the public press and other channels of public communications.

Section 8. Committee on inter-professional and business relations. It shall be the duty of this committee to serve as a liaison agency between the legal profession and other professions and groups with whom the bar is in contact in order to interpret to such professions and groups the proper scope of the practice of law.

Section 9. Committee on legislation. This committee shall study all proposals submitted to the Wisconsin Legislature or the Congress of the United States for changes in the statutes relating to the courts or the practice of law, and shall report thereon to the board of governors; and with the approval of the board of governors may represent the State Bar in supporting or opposing any such proposals.

Section 10. Committee on legal aid. This committee shall promote the establishment and efficient maintenance of legal aid organizations equipped to provide free legal services to those unable to pay for such service; shall study the administration of justice as it affects persons in the low income groups; and shall study and report on methods of making

legal service more readily available to persons of moderate means, and shall encourage and assist local bar associations in accomplishing this purpose.

Section 11. Committee on unauthorized practice of the law. This committee shall keep itself and the association informed with respect to the unauthorized practice of law by laymen and by agencies, and the participation of members of the bar in such activities, and concerning methods for the prevention thereof. The committee shall seek the elimination of such unauthorized practice and participation therein on the part of members of the bar, by such action and methods as may be appropriate for that purpose.

Section 12. Committee on State Bar Bulletin. This committee shall assist and advise the officers of the association and the board of governors in matters pertaining to the production and publication of the *Wisconsin State Bar Bulletin*, the *Wisbar Letter*, the *Supreme Court Calendar Service* and such other periodical publications of the State Bar as may be authorized by the board of governors from time to time.

Article V

SECTION ORGANIZATION AND ACTIVITIES

Section 1. Establishment, consolidation and discontinuance of sections. Upon approval of an application for the establishment of a new section, the board of governors, by vote of a majority of its members may establish such a section dedicated to a field of law not committed to any other section or committee of the association. Every application to the board of governors for the establishment of a section shall set forth:

(a) The field of law to which the proposed section is to be dedicated, which shall be within the purposes of the State Bar and outside the field of law committed to any existing section or committee of the association.

(b) A statement of the need for the proposed section.

(c) The proposed by-laws for the government of such section.

(d) The names of the several committees, if any, of the proposed section.

(e) A list of members of the association who have signified their intention of applying for membership in the proposed section.

An application for the consolidation of existing sections shall set forth the information required in the case of an application for establishing a section. Such an application may be granted by the board of governors in its discretion, by vote of two-thirds of the members.

A section may be discontinued by vote of a majority of the members of the board of governors, but only after notice by mail to the members of such section.

Section 2. Membership of sections. Any member of the State Bar shall be entitled at his election to enroll in any section.

Section 3. Section officers and council. Each section shall have a chairman and council and such other officers as the section by-laws may provide. The council of a section shall consist of the officers *ex officio* and such other members as may be provided in the by-laws. No change in the by-laws of any section shall be effective until approved by the board of governors.

Section 4. Section dues. The members of any section may be required to pay section dues in such amount and for such purposes as the section, with the approval of the board of governors, may from time to time determine.

Section 5. Section meetings. There shall be a meeting of members of each section immediately preceding or during the period of each annual meeting of the association, as the board of governors may direct. There shall be a meeting of the members of each section also immediately preceding or during the period of each annual mid winter meeting of the association, as the board of governors may direct.

Section 6. Publication of proceedings of sections. The proceedings of any section meeting may be published in the discretion of the board of governors.

[fol. 28] *Section 7. Reports.* Each section shall submit to the board of governors prior to the annual meeting of the association in each year a report of the activities of the section during the year.

Section 8. Expenses. Expenditures out of the dues of sections shall be made only by direction of the council of the section; and the treasurer of the State Bar shall pay out of such dues only such amounts as the chairman of the section shall certify to have been so authorized.

Article VI

EXECUTIVE DIRECTOR

The board of governors may appoint an executive director to assist the board of governors and officers of the association in the performance of their respective duties. He shall devote his full time to the affairs of the State Bar. It shall be a part of his duties to assist the chairmen of committees and sections of the State Bar in performing administrative functions incident to the work of committees and sections, as directed by the board of governors or the president. His compensation shall be fixed by the board of governors; and he shall perform such duties as the board may from time to time prescribe.

Article VII

AMENDMENT

The provisions of these By-laws shall be subject to amendment or abrogation by (i) resolution adopted by vote of two-thirds of the members of the board of governors, or (ii) action of the members of the association expressed through the referendum procedure defined in Rule 7. When any change in the By-laws has been made, the secretary shall publish notice thereof, including a copy of the amendatory resolution, in the official bulletin of the State Bar, and he shall file a certified copy thereof with

the clerk of the Supreme Court. A petition for review of any such change in the By-laws will be entertained by the court if signed by twenty-five or more active members of the association and filed with the clerk of the court within sixty days after publication of notice of such change. Hearing upon such a petition will be pursuant to notice in such manner as the court may direct.

Adopted by Order of the Supreme Court of the State of Wisconsin. Effective January 1, 1957.

Continued by Decision of Court December 22, 1958.

August Term, 1958

STATE OF WISCONSIN: IN SUPREME COURT

IN RE INTEGRATION OF THE BAR

Original proceeding for the continuation of the integrated Bar. This matter is before the court on its order of December 7, 1956 directing the Board of Governors of the State Bar of Wisconsin to report on the functioning of the State Bar with their recommendations with respect to any amendment of its Rules and By-laws, in the light of experience thereunder and the continuation of the State Bar of Wisconsin under said Rules and By-laws, with or without amendment, on a more permanent basis beyond December 30, 1958. Upon the filing of the report of the Board of Governors due notice was given to all members of the State Bar of Wisconsin of a hearing thereon at which any member and any local Bar association could appear and present his or its views relating to the amendments of the Rules and By-laws and the continuation of the integrated State Bar.

The hearing was held on November 21, 1958. The report of the Board of Governors was presented and orally argued by Robert D. Johns and oral arguments or briefs in opposition to the continuance of the integrated Bar or for changes in the Rules and in the By-laws were made or filed by Trayton L. Lathrop, Arnold C. Otto, Milwaukee Junior Bar Association, Meyer Papermaster, Samuel P. Murray, Thomas P. Maroney, Brooke Tibbs, and others.

Per Curiam. The issue before this court is whether the integrated State Bar of Wisconsin should be continued and if so what amendments, if any, to the Rules and By-laws should be made. The integrated Bar in this state has existed for almost two years. Its birth in Wisconsin was an experiment which this court had considered on several previous occasions and finally decided ought to be tried for an initial period of two years.

The history of integration is adequately set forth in the previous decisions of this court. In re *Integration of Bar Case* (1943), 244 Wis. 8, 11 N.W. (2d) 604; In re *Integration of Bar* (1946), 249 Wis. 523, 25 N.W. (2d) 500; In re *Integration of Bar* (1956), 273 Wis. 281, 77 N.W. (2d) 602. The present Rules and By-laws of the State Bar of Wisconsin were adopted and promulgated and the Bar integrated by order of this court on December 7, 1956, to be effective for two years commencing January 1, 1957, subject to amendment as provided in the Rules and By-laws or at any time by order of this court. See Integration of the Bar (1956), 273 Wis. vii. (Order, Opinion, State Bar Rules and State Bar By-laws.)

During these two years the Board of Governors made two minor changes in the By-laws—one clarifying the provisions relating to dues for younger members, and the other simplifying the election procedure. Both changes were reported to this court and no petition for review by [fol. 29] the members of the State Bar was filed expressing objection to these amendments as provided in Rule 11, Sec. 2.

Under integration the State Bar has increased its services to the lawyers of this state, promoted the high standards of the members of the profession, and increased its contribution to public service and to the administration of law and justice. The State Bar is in sound financial condition and its membership is greater in number than was reasonably expected. The acceptance of the integrated State Bar by its members and by the public during these two years has been satisfactory. At this point we wish to commend the Board of Governors for the adoption of the legislative procedure and working rules proposed by

Alfred E. LaFrance' committee whereby the State Bar can fulfill its responsibility in legislative matters with fairness to all members and for the adoption of the resolution providing that any member may present any matter to the Board of Governors at any time. The objections and fears of the opponents to integration have not materialized. The arguments advanced for not continuing the integrated Bar are the same or similar to the arguments heretofore considered and disposed of by this court. None of them is grounded upon the experience of the last two years with the integrated Bar which has functioned well and successfully. Perhaps this was to be expected. At the time of the integration of the Bar there were 24 other states in which the Bar had been integrated and no supreme court, to our knowledge, which integrated the Bar of its state by rule of court has found the integrated Bar to be unworthy of its existence. As recently as 1955 the Alaska Bar Association was integrated by the Alaska Territorial Legislature. One of its contributions was the preparation of a proposed article on the judiciary for submission to the Constitutional Convention. Many of its proposals are now found in Article IV of the Constitution of Alaska. See A Model Judiciary for the 49th State, Stewart, Journal of the American Judicature Society, August 1958, Vol. 42, No. 2. Annotations on the problems of integration are found in 114 A.L.R. 161 and 151 A.L.R. 617.

We must reiterate, the primary duty of the courts as the judicial branch of our government is the proper and efficient administration of justice. Members of the legal profession by their admission to the Bar become an important part of that process and this relationship is characterized by the statement that members of the Bar are officers of the court. An independent, active and intelligent Bar is necessary to the efficient administration of justice by the court. The labor of the courts is lightened, the competency of their personnel and the scholarship of their decisions are increased by the ability and the learning of the Bar. The practice of the law in the broad sense, both in and out of the courts, is such a necessary part of and is so inexorably connected with the exercise of the judicial

power that this court should continue to exercise its supervisory control of the practice of the law.

The integration of the Bar is no more undemocratic than the requirement of learning and good moral character of all who seek the privilege of practicing law. All members had the same opportunity and have freely chosen a profession subject traditionally to discipline and control by the courts. It is not undemocratic to require those who are privileged to practice law and are entrusted with the duty to secure or protect the property, rights and liberties of others to become bound together in a united effort to increase their own capabilities, to maintain the high standards of the group and to increase the effectiveness of their service to the public. The integrated Bar has been defined as "the process by which every member of the Bar is given an opportunity to do his share in carrying out the public service of the Bar and obliged to bear his portion of the responsibility." Most objections have centered around the obligation to bear a portion of the responsibility. In the nature of things every privilege has a correlative obligation.

The integrated Bar does not destroy either the independence of the Bar or of the individual lawyers. The State Bar of Wisconsin was not intended to control and there is no evidence or intimation that it has controlled or attempted to control the thinking of any of its members. When the State Bar of Wisconsin through its Board of Governors, an elected representative policy-making body, duly decides a policy within its province on behalf of the State Bar everyone understands or should understand the policy is that of the State Bar as an entity separate and distinct from each individual. Such pronouncement of the State Bar does not necessarily mean all of its members agree with that pronouncement, nor is it necessary for them to do so. Individual members are free to think and to express their own opinions. But it is the nature of a representative democratic organization that the elected representatives of the group speak and act for it in accordance with its organic laws.

The rules of the State Bar of Wisconsin are rules promulgated by this court. They form the framework of the organization and Rule 1, Sec. 2 provides:

"SECTION 2. *Purposes.* The purposes of the association shall be to aid the courts in carrying on and improving the administration of justice; to foster and maintain on the part of those engaged in the practice of law high ideals of integrity, learning, competence and public service and high standards of conduct; to safeguard the proper professional interests of the members of the bar; to encourage the formation and activities of local bar associations; to provide a forum for the discussion of subjects pertaining to the practice of law, the science of jurisprudence and law reform, and the relations of the bar to the public, and to publish information relating thereto; to the end that the public responsibilities of the legal profession may be more effectively discharged."

The other rules deal with the conditions of membership, the officers, the board of directors and the executive committee. Democratic procedure is provided for membership meetings and for membership referendum. Rule 10 provides for grievance committees and procedures for the in- [fol. 30] vestigation of grievances, for the protection of the members of the Bar and for the protection of the public. The integrated Bar has no power to discipline or to disbar any member. That power has been reserved to and not delegated by this court. The procedure under sec. 256.28, stats., 29 W.S.A., p. 358, for filing complaints for discipline or disbarment in this court is unaffected by these rules. Rule 11 and Rule 7 provide an orderly and easy method by which proposals to amend or abrogate the Rules of the State Bar may be brought before this court for hearing on petition. Rule 9 provides the rules of professional conduct set forth from time to time in the canons of professional ethics of the American Bar Association, as supplemented or modified by pronouncement of this court, shall be the standard governing the practice of law in this state. Prior to the adoption of the rules this court has not expressly adopted such canons of professional ethics in toto.

The By-laws of the State Bar provide for the internal workings of the organization and by Rule 11, Sec. 2, may be

amended or abrogated by resolution adopted by a vote of ⅔ of the members of the Board of Governors or by the members of the association themselves through the referendum procedure. As a further protection to the minority a petition for review of any change in the By-laws made by the Board of Governors will be entertained by the court if signed by 25 or more active members.

Independently of the provisions in the Rules for invoking our supervisory jurisdiction, this court has inherent power to take remedial action, on a sufficient showing that the activities or policies of the State Bar are not in harmony with the objectives for which integration was ordered or are otherwise contrary to the public interest.

Some suggestions made at the hearing related to changes in the By-laws and in the Rules. Some of these seem to have merit but this court believes that all of these suggestions should first be considered by the State Bar and we refer all such suggestions to the Board of Governors for consideration and action.

We wish to point out that the suggestion to amend Sec. 10 of Rule 10 to give the Board of Governors the power to change the grievance procedure for Milwaukee County and adopt the Milwaukee Bar Association's procedure to carry out the powers and duties of District 4 Grievance Committee might destroy the uniformity of the grievance procedure throughout the state, and in addition apply a procedure to members of the State Bar who are not members of the Milwaukee Bar Association. On the present state of the record we assume a uniform grievance procedure throughout the state will best serve the pubnc interest and the members of the State Bar.

It has been urged upon the court that no poll of the members of the State Bar has been taken by the Board of Governors to ascertain their desires concerning the continuation of the integrated Bar. The usefulness of such a poll was discussed in our opinion *In re Integration of Bar* (1946), 249 Wis. 523, 25 N.W. (2d) 500. Such poll, of course, would be informative but would not be determinative. Responsibility for creating and continuing the integrated State Bar of Wisconsin belongs to the court and its con-

tinuation must always rest in the judgment of the court. The Rules provide the means through referendum by which the members can secure a poll on any question of policy if sufficient members are dissatisfied with the action of the Board of Governors. This court does not intend to interfere with the orderly workings of the State Bar unless cause is shown.

One new objection was made, not so much to the continuance of the State Bar as to the limiting of its functions. It was argued the Rules of the State Bar should be restricted to pertain only to the discipline of individual members of the Bar for professional misconduct in cases duly before this court for determination. The Rules proposed in 1946 and rejected by this court indicated no general statement of purpose and no specification of activities excepting those having to do with complaints and grievances. As stated in that opinion, such Rules would merely implement without supplementing the work of the State Bar Commissioner. The power of the court is not restricted in matters of discipline to misconduct connected only with cases pending in this court. The disciplinary power of the court extends to the entire field of the practice of the law by members who have been admitted to practice by this court. When a member of the Bar is suspended or disbarred it is from the practice of the law, not only from appearing in court.

In the opinion *In re Integration of Bar* (1946), 249 Wis. 523, 25 N.W. (2d) 500, the court assumed it would be required to censor the budget and activities of the Bar after integration. Certain activities were pointed out for which the integrated Bar could not use its dues. The two years' experience with the Integrated Bar in this state has proven and we now believe that such detailed supervision is not desirable or essential to the existence of the integrated Bar. This court thought by the adoption of the present State Bar Rules and By-laws many of the statements made in the decision of 1946 were implicitly rejected. To clarify the point, the language of our previous opinions contrary or inconsistent with the present State Bar Rules and By-laws

promulgated by this court and this opinion is overruled. The integrated State Bar of Wisconsin is independent and free to conduct its activities within the framework of such Rules and By-laws. Within their confines this court expects the Bar to act freely and independently on all matters which promote the purposes for which the Bar was integrated subject to the general supervisory power of the Court. These Rules and By-laws constitute a democratic process by which members of the Bar can govern themselves and can act in unison and by which minorities are protected; and they provide appropriate procedures for invoking the supervisory power of this court.

It is ordered that the State Bar of Wisconsin be and it hereby is continued.

Dated December 22, 1958.

[fol. 31] [File endorsement omitted]

EXHIBIT B TO COMPLAINT

March 6, 1959

Mr. Joseph D. Donohue
State Bar of Wisconsin
402 West Wilson Street
Madison 3, Wisconsin

Dear Mr. Donohue:

I have received in an envelope postmarked February 27, 1959, a "second notice" to pay "1959 Membership Dues in State Bar of Wisconsin".

Section 2 of Article I of the State Bar of Wisconsin By-laws, promulgated by the Supreme Court of the State of Wisconsin provides that dues shall be paid to the Treasurer of the State Bar of Wisconsin, an organization created by said court, and that said dues shall be $15 per annum. I understand that you are the Treasurer of said State Bar of Wisconsin.

Section 3 of said Article I of said State Bar of Wisconsin By-laws provides that the Board of Governors *shall* suspend the membership of each dues delinquent member and " . . . that no person whose membership is suspended for the non-payment of dues shall be entitled to practice law during the period of such suspension."

In order that I may continue to engage in the livelihood for which I have been trained, and in which I have been engaged for more than eleven years, according to the order of the Supreme Court of Wisconsin I must send to you the dues commanded.

I therefore enclose herewith my certified check dated March 6, 1959 in the amount of $15.00 drawn on Madison Bank & Trust Company payable to the order of Joseph D. Donohue, which is sent to you *under protest.*

I do not like to be coerced to support an organization which is authorized and directed to engage in political and propaganda activities. I believe that when such coercion is by the judiciary it is extremely distasteful and alarming. A major portion of the activities of the State Bar as pre- [fol. 32] scribed by the Supreme Court of Wisconsin are of a political and propaganda nature. See, for example, sections 4, 5, 6, 7, 8, 9, 10 and 12 of Article IV of the above mentioned By-laws, and section 2 of Rule I of the State Bar of Wisconsin Rules.

You are placed on notice, therefore, that I will hold you personally liable for the amount of this payment. In my opinion this payment has been exacted in violation of both the Wisconsin and United States Constitutions.

Very truly yours,

Trayton L. Lathrop /s/

TLL:rv
Enclosure

[fol. 34] [File endorsement omitted]

IN THE CIRCUIT COURT OF DANE COUNTY

[Title omitted]

DEMURRER—Filed July 9, 1959

The defendant demurs to the complaint herein on the grounds that it appears on the face thereof that:

1. The court lacks jurisdiction over the subject matter of the action in that exclusive jurisdiction thereof is vested in the Supreme Court of the State of Wisconsin.

2. There is a defect of parties defendant in that the State Bar of Wisconsin is a necessary party.

3. The complaint does not state facts sufficient to constitute a cause of action.

Joseph D. Donohue, Defendant in propria persona.

Of Counsel: Gordon Sinykin, 110 East Main St., Madison 3, Wisconsin.

[fol. 39] [File endorsement omitted]

IN THE CIRCUIT COURT OF FOND DU LAC COUNTY

TRAYTON L. LATHROP, Plaintiff,

vs.

JOSEPH D. DONOHUE, Defendant.

DECISION OF THE COURT ON DEMURRER—October 9, 1959

Briefly, the complaint of the plaintiff alleges that he is duly licensed by the State of Wisconsin to practice law as a lawyer and that he has been so engaged since 1948. That on March 6, 1959, he paid to the defendant, by certified check payable to the order of the defendant, the sum of $15.00; and that at the time of the delivery of the check he

informed the defendant, in a letter which accompanied the check, that the check was sent under compulsion of Sections 2 and 3 of Article 1 of the By-laws of the State Bar of Wisconsin, and under protest, and that he would hold the defendant personally liable for that amount. A copy of the letter is attached to the complaint. That the defendant cashed the check and commingled the $15.00 with the funds of the State Bar of Wisconsin, the defendant being at that time Treasurer of the State Bar of Wisconsin. That the sum of $15.00 constituted dues which the plaintiff was required to pay to the State Bar of Wisconsin annually in order to be permitted to practice law, and that said payment was made under coercion and against his free will.

The complaint further alleges that the State Bar of Wisconsin has used its employees, property and funds in active unsolicited opposition to the adoption of legislation by the Legislature of Wisconsin which was favored by the plaintiff.

The complaint further alleges that the State Bar of Wisconsin has also been engaged in the promotion of matters contrary to its fundamental purposes. The last paragraph of the complaint reads as follows:

> [fol. 40] "The plaintiff bases this action on his claim that the defendant has unjustly received, held, and disposed of funds of the plaintiff in the amount of $15.00, which to the knowledge of the defendant were paid to the defendant by the plaintiff unwillingly and under coercion, and that such coercion was and is entailed in the rules and by-laws of the State Bar of Wisconsin continued in effect by the aforesaid order of the Supreme Court of Wisconsin dated December 22, 1958; and the said order, insofar as it coerces the plaintiff to support the State Bar of Wisconsin, is unconstitutional and in violation of the Fourteenth Amendment of the Constitution of the United States, and Sections 1, 3, 4, 18 and 22 of Article 1 of the Constitution of the State of Wisconsin."

The addendum clause then prays for judgment against the defendant in the amount of $15.00, plus interest from

March 31, 1959, together with his costs and disbursements; and that the plaintiff have such other relief as may be just.

The defendant demurs to the complaint on the grounds that it appears on the face thereof that:

1. The Court lacks jurisdiction over the subject matter of the action in that exclusive jurisdiction thereof is vested in the Supreme Court of the State of Wisconsin.

2. There is a defect of parties defendant in that the State Bar of Wisconsin is a necessary party.

3. The complaint does not state facts sufficient to constitute a cause of action.

It is not clear from the complaint as to whether the plaintiff is basing his claim for the refund of the $15.00 dues paid to the State Bar of Wisconsin by virtue of the fact that he alleges that said payment was made under coercion as a result of his contention that the State Bar was engaged in activities contrary to the rules of the Supreme Court, or whether it is limited to a rule which provides that a lawyer must pay annual dues of $15.00 in order to be properly licensed to practice law in the State of Wisconsin. For the purpose of ruling on the demurrer, the complaint must be liberally construed; and for that reason the Court is con- [fol. 41] struing the complaint to mean that the plaintiff seeks a refund of the sum of $15.00 he paid as dues under a contention that he was coerced into paying said dues by the State Bar of Wisconsin while the State Bar of Wisconsin was engaged in the performance of functions contrary to the rules and regulations as promulgated by the Supreme Court of Wisconsin; and that he was likewise coerced into paying the $15.00 dues by virtue of a rule promulgated by the Supreme Court of Wisconsin which provides that, in order to practice law in the State of Wisconsin, annual dues in the sum of $15.00 must be paid to the State Bar of Wisconsin; and that as a result the rules so promulgated by the Supreme Court of Wisconsin in "In re: Integration of Bar, 273 Wis. 281," and State Bar rules and State Bar by-laws set forth in 273 Wis. xi through xxxvii, or certain of the provisions therein, are null and void as being in violation of constitutional provisions of either the State of Wisconsin or the United States of America. (The Supreme

Court of Wisconsin in "In re: Integration of Bar, 5 Wis. (2d) 618," on Dec. 22, 1958, ordered as follows: "It is ordered that the State Bar of Wisconsin be and it is hereby continued." By ordering the continuation of the State Bar of Wisconsin, the Supreme Court ordered that the State Bar rules and the State Bar by-laws (supra) be continued in effect indefinitely.)

Section 256.31 of the Statutes was adopted by the Legislature in the year 1943, being known as Chapter 315 of the Laws of 1943, and reads as follows:

> "State bar of Wisconsin. (1) There shall be an association to be known as the 'State Bar of Wisconsin' composed of persons licensed to practice law in this state, and membership in such association shall be a condition precedent to the right to practice law in Wisconsin.
>
> (2) The supreme court by appropriate orders shall provide for the organization and government of the association and shall define the rights, obligations and conditions of membership therein, to the end that such [fol. 42] association shall promote the public interest by maintaining high standards of conduct in the legal profession and by aiding in the efficient administration of justice."

In Integration of Bar Case: In re Constitutionality of Chapter 315, Laws of 1943, 244 Wis. 8, the Court held as follows:

> "Ch. 315, Laws of 1943, creating sec. 256.31, Stats., directing the supreme court to provide by appropriate orders for the organization and government of a state bar association, and providing that all persons licensed to practice law shall be members as a condition precedent to the right to practice law in this state, is not unconstitutional as delegating legislative power to the court, nor as denying to members of the bar the equal protection of the laws guaranteed by the Fourteenth amendment, nor as denying to them the benefit of federal statutes relating to the practice of law in the federal courts.

The integration of the bar is a judicial and not a legislative function, and the power to integrate the bar resides in the judicial and not in the legislative branch of the state government. The supreme court is not precluded from exercising the power of integrating the bar by the provision in sec. 3, art. VII, Const., conferring only appellate jurisdiction on that court.

So far as the integration of the bar involves matters affecting the general welfare, the legislature in the exercise of its powers may act subject to review by the court to determine whether the administration of justice is embarrassed or the constitutional power of the court is invaded.

The court will not treat ch. 315, Laws of 1943, as merely a memorial invoking the power of the court to integrate the bar, nor will the court regard the act as an attempt by the legislature to invade the province of the court or to dictate to it, but the court will regard the act as a legislative declaration that the integration of the bar will promote the general welfare.

In view of the fact that so many members of the bar are in the military and naval service or otherwise engaged in promoting the war effort, the matter of integration will not be proceeded with at the present time."

In In re Integration of the Bar, 249 Wis. 523, the Court held as follows:

"The justification for integrating the bar and compelling the payment of fees, which are the lifeblood of an integrated bar, would be that the supreme court has inherent power to control and regulate its bar as officers of the court, and that this power may be implemented by dues from the members of the bar which serve in a measure the function of license fees, but which are not such in a legal sense, in that they are not paid into the treasury of the state.

[fol. 43] "In case of integration of the bar by the supreme court pursuant to ch. 315 Laws of 1943, sec. 256.31, Stats., annual fees required of the members of the bar in support of the integrated bar would be moneys required to be paid into the treasury of the bar

for a public purpose connected with the administration of justice."

On Page 527 the Court said:

"In the original opinion we expressly reserved the question whether this court could require members of the bar to pay dues in support of an integrated bar. A consideration of this question is necessarily inseparable from a consideration of the question whether the court should integrate the bar, because the fees are the life-blood of the integrated bar, and to integrate the bar without fees would be useless. Such cases as we have examined, passing upon this point, hold that the court may require payment of dues. A. C. Brydonjack v. State Bar of California, 208 Cal. 439, 281 Pac. 1018, 66 A.L.R. 1507; In re Gibson, 35 N.M. 550, 4 Pac. (2d) 643; State Bar of Oklahoma v. McGhee, 148 Okla. 219, 298 Pac. 580; Kelley v. State Bar of Oklahoma, 148 Okla. 282, 298 Pac. 623; Petition for Integration of Bar of Minnesota, 216 Minn. 195, 12 N.W. (2d) 515; In re Scott, 53 Nev. 24, 292 Pac. 291. All of them very briefly justify the fees as an occupational license. This analogy cannot be pressed too far, although it has some vitality, because the license of occupations is clearly a legislative function. Further than this, license money should properly go into the treasury of the state and be appropriated. It must be appropriated for a public purpose, it requires a strict limiting of purposes of the integrated bar, and it raises embarrassing problems of auditing.

The justification for integrating the bar and compelling payment of fees is not that suggested by the cases above cited. It is rather that the court has inherent power to control and regulate its bar as officers of the court, and that this power may be implemented by dues from the members which serve in a measure the function of license fees, but which are not such in a legal sense. In other words, the court by reason of its inherent or implied powers may, if it thinks the exigencies call for it, require the bar to act as a unit,

to promote high standards of practice and the economical and speedy enforcement of legal rights, and to implement this may require the bar to make such contributions in money to the joint effort as is deemed necessary and proper. No matter what these fees be called, they are moneys required to be paid into the treasury of the bar for a public purpose connected with the administration of justice."

In In Re Integration of the Bar, 273 Wis. 281, on Page 283 the Court held as follows:

"This is the third time that this matter has received the attention of this court. See Integration of Bar Case, 244 Wis. 8, 11 N.W. (2d) 604, 12 N.W. (2d) 699, and In re Integration of Bar, 249 Wis. 523, 25 N.W. [fol. 44] (2d) 500. In those decisions legal and constitutional questions involving the enactment of ch. 315, Laws of 1943, now sec. 256.31, Stats., were considered and answered. It was held that said statutory provision is not binding upon the court but was an expression of public policy by the legislature. It was held that this court, by reason of its inherent powers, may require the bar to act as a unit to promote high standards of practice and the economical and speedy enforcement of legal rights.

In the first decision it was held that the bar should not be integrated while so many attorneys were engaged in the war effort. In the second decision it was intimated that the objectives sought to be obtained by integration could be attained by an adequately supported voluntary association, and the court advocated complete and wholehearted support of the voluntary association by the individual members of the bar. Many individual members of the bar did respond to that suggestion, but it is now reported that too many lawyers have refrained or refused to join, that membership in the voluntary association has become static, and that a substantial minority of the lawyers in the state are not associated with the State Bar Association.

Able attorneys presented arguments both for and against the granting of the petition. Apparently the

same arguments have been made in other states. 114 A.L.R. 151; 151 A.L.R. 586; and Petition of Florida State Bar Asso. 40 So. (2d) 902. It is unnecessary to repeat the arguments here.

Twenty-four states now have integrated bars. Some have been integrated in response to legislation such as we have in this state and some under the inherent power of the high courts of the various states."

The Supreme Court then ordered the State Bar of Wisconsin to be integrated when proper rules and procedures had been adopted by further order of the Court. It was as a result of this order that the Supreme Court promulgated the State Bar Rules and the State Bar By-laws (supra), the Court having ordered that these rules and by-laws be in effect for a period of two years.

In In Re Integration of the Bar, December 22, 1958, 5 Wis. (2d) 618, the Court said, at Page 620:

"The history of integration is adequately set forth in the previous decisions of this court. Integration of Bar Case (1943), 244 Wis. 8, 11 N.W. (2d) 604; In re Integration of Bar (1946), 249 Wis. 523, 25 N.W. (2d) 500; In re Integration of Bar (1956), 273 Wis. 281, 77 N.W. (2d) 602. The present rules and by-laws of the [fol. 45] State Bar of Wisconsin were adopted and promulgated and the bar integrated by order of this court on December 7, 1956, to be effective for two years commencing January 1, 1957, subject to amendment as provided in the rules and by-laws or at any time by order of this court. See Integration of the Bar (1956) 273 Wis. p. vii. (Order, Opinion, State Bar Rules, and State Bar By-laws)."

The Court further said, on Pages 622-623:

"We must reiterate, the primary duty of the courts as the judicial branch of our government is the proper and efficient administration of justice. Members of the legal profession by their admission to the bar become an important part of that process and this rela-

tionship is characterized by the statement that members of the bar are officers of the court. An independent, active, and intelligent bar is necessary to the efficient administration of justice by the courts. The labor of the courts is lightened, the competency of their personnel and the scholarship of their decisions are increased by the ability and the learning of the bar. The practice of the law in the broad sense, both in and out of the courts, is such a necessary part of and is so inexorably connected with the exercise of the judicial power that this court should continue to exercise its supervisory control of the practice of the law.

The integration of the bar is no more undemocratic than the requirement of learning and good moral character of all who seek the privilege of practicing law. All members had the same opportunity and have freely chosen a profession subject traditionally to discipline and control by the courts. It is not undemocratic to require those who are privileged to practice law and are intrusted with the duty to secure or protect the property, rights, and liberties of others to become bound together in a united effort to increase their own capabilities, to maintain the high standards of the group, and to increase the effectiveness of their service to the public. The integrated bar has been defined as 'the process by which every member of the bar is given an opportunity to do his share in carrying out the public service of the bar and obliged to bear his portion of the responsibility.' Most objections have centered around the obligation to bear a portion of the responsibility. In the nature of things every privilege has a correlative obligation.

The integrated bar does not destroy either the independence of the bar or of the individual lawyers. The State Bar of Wisconsin was not intended to control and there is no evidence or intimation that it has controlled or attempted to control the thinking of any of its members. When the State Bar of Wisconsin through its board of governors, an elected representative policy-making body, duly decides a policy within its province on behalf of the State Bar everyone understands or

should understand the policy is that of the State Bar as an entity separate and distinct from each individual. [fol. 46] Such pronouncement of the State Bar does not necessarily mean all of its members agree with that pronouncement, nor is it necessary for them to do so. Individual members are free to think and to express their own opinions. But it is the nature of a representative democratic organization that the elected representatives of the group speak and act for it in accordance with its organic laws.

The rules of the State Bar of Wisconsin are rules promulgated by this court."

The Court further said, on Pages 624-625:

"The other rules deal with the conditions of membership, the officers, the board of directors, and the executive committee. Democratic procedure is provided for membership meetings and for membership referendum. Rule 10 provides for grievance committees and procedures for the investigation of grievances, for the protection of the members of the bar, and for the protection of the public. The integrated bar has no power to discipline or to disbar any member. That power has been reserved to and not delegated by this court. The procedure under sec. 256.28, Stats., for filing complaints for discipline or disbarment in this court is unaffected by these rules. Rule 11 and Rule 7 provide an orderly and easy method by which proposals to amend or abrogate the rules of the State Bar may be brought before this court for hearing on petition. Rule 9 provides the rules of professional conduct set forth from time to time in the canons of professional ethics of the American Bar Association, as supplemented or modified by pronouncement of this court, shall be the standard governing the practice of law in this state. Prior to the adoption of the rules this court had not expressly adopted such Canons of Professional Ethics in toto.

The by-laws of the State Bar provide for the internal workings of the organization and by Rule 11, sec. 2, may be amended or abrogated by resolution

adopted by a vote of two thirds of the members of the board of governors or by the members of the association themselves through the referendum procedure. As a further protection to the minority a petition for review of any change in the by-laws made by the board of governors will be entertained by the court if signed by 25 or more active members.

Independently of the provisions in the rules for invoking our supervisory jurisdiction, this court has inherent power to take remedial action, on a sufficient showing that the activities or policies of the State Bar are not in harmony with the objectives for which integration was ordered or are otherwise contrary to the public interest."

A rule promulgated by the Supreme Court of Wisconsin is as effective as a law passed by the Legislature, and in [fol. 47] effect is a law of the State. The Supreme Court has exclusive supervisory jurisdiction of the State Bar of Wisconsin. If the rules as now promulgated are such that they permit the State Bar of Wisconsin to engage in activities which are not in agreement with the views of the plaintiff, the plaintiff may seek a remedy by following the remedial provisions as contained in the rules, and the Supreme Court of Wisconsin has exclusive jurisdiction to determine whether or not the State Bar of Wisconsin is violating the rules or whether the rules should be amended. The Circuit Court has no jurisdiction to determine these questions.

Section 5 of Rule 2 of the State Bar Rules provides that every active member shall pay membership dues in such amount, not exceeding $20.00 per year, as may be fixed in the By-laws. Section 3 of the State Bar By-laws provides that a member shall be suspended for non-payment of dues. It also provides that no person whose membership is suspended for the non-payment of dues shall be entitled to practice law during the period of such suspension. By rule of the Supreme Court of Wisconsin it is the declared law of this State that in the event a lawyer fails to pay the dues as provided by law, he may be suspended and, as a result of being suspended, is not permitted to practice law

in this State. The rules further provide for a method of petitioning the Supreme Court of Wisconsin requesting that the rule be changed. The Circuit Court has no jurisdiction with reference to the rules herein involved. The plaintiff contends that the Circuit Court has jurisdiction by virtue of the fact that this is a suit for the collection of money. However, the subject matter of this litigation involves rules promulgated by the Supreme Court of Wisconsin, and the Supreme Court has exclusive jurisdiction with reference to the questions involved.

[fol. 48] It is therefore the considered opinion of this Court that the Supreme Court of Wisconsin has exclusive jurisdiction of the subject matter contained in the complaint of the plaintiff.

Assuming that this Court did have jurisdiction of the subject matter of the complaint, then is there a defect of parties defendant in that the State Bar of Wisconsin is a necessary party? The defendant Donohue is a practicing attorney and, at the time of the service of the complaint on June 8, 1959, was treasurer of the State Bar of Wisconsin. This Court takes judicial note of the rules of the State Bar of Wisconsin which provide for the election of officers and, by virtue of these rules, recognizes that the defendant is no longer treasurer of the State Bar. The Court also takes judicial note of the rules which provide that all funds must be disbursed in accordance with the orders of the Board of Governors of the Bar. The complaint recognizes that the sum of $15.00 paid to the defendant was turned over and went into the treasury of the State Bar and that the real owner of the funds is the State Bar. Rule 1 of the State Bar Rules provides:

> "The State Bar may, for the purpose of carrying out the purposes for which it is organized, sue and be sued, enter into contracts, acquire, hold, encumber and dispose of real and personal property."

If the plaintiff can recover from the defendant on the ground that the State Bar Rules are invalid, as alleged, then the rights of the State Bar and its various assistants are in jeopardy in a lawsuit to which it is not a party. An indispensable party to a lawsuit can be defined as follows:

> "An indispensable party is one who has such an interest in the subject matter of the controversy that a final decree cannot be rendered between the other parties to the suit without radically and injuriously affecting his interest or without leaving the controversy in such a situation that its final determination may be inconsistent with equity and good conscience."

Silver King Coalition Mines Co. v. Silver King C.M. Co., 204 Fed. 166, quoted with approval in McCoy v. May, 255 Wis. 20.

[fol. 49] It is the opinion of this Court that the State Bar of Wisconsin is an indispensable party to this litigation and that its interest in the subject matter of the controversy is such that it should be required, for its own protection, to be brought in as a party defendant. (Section 260.19 (1) Wisconsin Statutes.)

Assuming that this Court did have jurisdiction of the subject matter of the complaint, then does the complaint state facts sufficient to constitute a cause of action? It is the contention of the plaintiff that the rules under which the State Bar operates, and particularly the rule requiring a lawyer to pay annual dues of $15.00, violate the provisions of the Constitution of Wisconsin and also the provisions of the Constitution of the United States.

Independently of the rules which create and govern the State Bar, the Supreme Court has exclusive supervisory jurisdiction over the State Bar by virtue of its inherent power to take remedial action on a sufficient showing that the activities or policies of the State Bar are not in harmony with the objectives for which integration was ordered, or are otherwise contrary to the public interest. The Circuit Court has no such jurisdiction.

The power and authority to grant a permit to an individual, authorizing the individual to practice law, rests exclusively in the Supreme Court. The power to control the activities of the lawyers and supervise, reprimand, suspend or disbar a lawyer likewise rests exclusively in the Supreme Court. The Supreme Court, in creating the Integrated Bar (State Bar of Wisconsin), did not relinquish those rights or powers. The Supreme Court also retained

the right and power to supervise, regulate and control the Integrated Bar (State Bar of Wisconsin).

If, when a person is granted permission to practice law, he gets that permission as a matter of right, then a serious [fol. 50] question would arise as to whether he could be required to pay annual dues in order to be in good standing. It is the considered judgment of this Court that no individual can demand a permit to practice law as a matter of right. In securing permission to practice law, an individual secures the permission by virtue of a privilege. A privilege is not a right. If it is a requirement that the individual pay annual dues in order that the individual may continue to exercise the privilege of practicing law, he is not being deprived of any right under either the Constitution of the State of Wisconsin or under the Constitution of the United States.

The Supreme Court has dealt with the question of the Integrated Bar on at least four occasions (decisions supra), not only by its decisions but by its acts in ordering the integration of the Bar. (In so doing, creating the State Bar of Wisconsin.) Under the rules of the Supreme Court it has effectually declared that all of its rules and regulations are of such a nature that they do not violate any of the provisions of either the Constitution of the State of Wisconsin or of the Constitution of the United States.

This Court concludes that the rules and regulations of the State Bar of Wisconsin, which have been promulgated by the Supreme Court of Wisconsin, do not violate any of the provisions of the Constitution of the State of Wisconsin or of the Constitution of the United States.

It is unnecessary to treat with the question of whether or not the payment by the plaintiff is to be considered as a payment under protest, or a voluntary payment.

Due consideration has also been given to various other contentions raised by the respective parties, and it is considered that it is unnecessary to discuss them in order to reach a decision.

[fol. 51] In 5 Wis. (2d), 618 (December 22, 1958) the Court said:

> "* * * It is not undemocratic to require those who are privileged to practice law and are intrusted with

> the duty to secure or protect the property, rights, and liberties of others to become bound together in a united effort to increase their own capabilities, to maintain the high standards of the group, and to increase the effectiveness of their service to the public. The integrated bar has been defined as 'the process by which every member of the bar is given an opportunity to do his share in carrying out the public service of the bar and obliged to bear his portion of the responsibility.' * * * ."

It is therefore concluded that the complaint fails to state facts sufficient to constitute a cause of action.

Assuming that this Court did have jurisdiction over the subject matter of the complaint, and assuming that the State Bar of Wisconsin was made an additional party defendant, it would then be the considered judgment of this Court that it would be impossible to frame a complaint so as to state facts sufficient to constitute a cause of action against either the State Bar of Wisconsin or the defendant Donohue (in the Circuit Court).

In Pedrick v. First National Bank of Ripon, 267 Wis. 436, it is held:

> "Where it appears that a sufficient complaint cannot be framed, the trial court, on sustaining a demurrer, may in its discretion deny to the plaintiff the opportunity to plead over."

It follows that the demurrer of the defendant must be sustained; and that the Court should exercise its discretion and deny to the plaintiff the right to plead over.

Counsel for the defendant is hereby directed to prepare for the Court's signature an order sustaining the demurrer of the defendant, dismissing the complaint of the plaintiff, and denying the plaintiff the right to plead over. The order shall further provide that the defendant recover from the plaintiff the sum of $15.00 costs.

Dated: October 9, 1959.

By the Court, Russell E. Hanson, Circuit Judge.

[fol. 54] [File endorsement omitted]

IN THE CIRCUIT COURT OF FOND DU LAC COUNTY

TRAYTON L. LATHROP, Plaintiff,

vs.

JOSEPH D. DONOHUE, Defendant.

JUDGMENT OF DISMISSAL—October 23, 1959

At a term of the Circuit Court for Fond du Lac County, Wisconsin, held at the Court House in the City of Fond du Lac, in said county, present the Honorable Russell E. Hanson, Circuit Judge, presiding.

This action having come on for hearing before the Court on September 3, 1959 upon the demurrer of the defendant to the complaint of the plaintiff herein; and the Court having on October 9, 1959 rendered its decision and written opinion upon said demurrer; and the Court having, by an order made and entered on October 23, 1959, sustained said demurrer, denied leave to the plaintiff to plead over, and directed judgment to be entered dismissing the plaintiff's complaint upon its merits with costs of Fifteen ($15.00) Dollars for the defendant;

Now, Therefore, upon motion of Gordon Sinykin, of counsel for the defendant,

It Is Ordered and Adjudged that the complaint of the plaintiff herein be and the same hereby is dismissed upon its [fol. 55] merits, and that the defendant, Joseph D. Donohue, have and recover from the plaintiff, Trayton L. Lathrop, costs in the sum of Fifteen ($15.00) Dollars.

Dated this 23 day of October, 1959.

By the Court:

George E. McConahey, Clerk.

[fol. 56] [File endorsement omitted]

IN THE CIRCUIT COURT OF FOND DU LAC COUNTY

[Title omitted]

NOTICE OF APPEAL—Filed November 25, 1959

To: Joseph D. Donohue, defendant. Gordon Sinykin, of counsel for the defendant.. Clerk of Circuit Court for Fond du Lac County, Wisconsin.

Please Take Notice that Trayton L. Lathrop, the plaintiff in this action, hereby appeals to the Supreme Court of the State of Wisconsin from the judgment rendered and entered in this action in the Circuit Court for the County of Fond du Lac on the 23rd day of October, 1959, in favor of the defendant and against the plaintiff and from the whole of said judgment. The aforesaid plaintiff does further appeal to the Supreme Court of the State of Wisconsin from the order sustaining demurrer entered in this action in the aforesaid circuit court on the 23rd day of October, 1959, and from the whole of said order.

Dated this 19th day of November, 1959.

Trayton L. Lathrop, Plaintiff, Leon E. Isaksen, of counsel for the plaintiff.

[fol. 58]

IN THE SUPREME COURT OF THE STATE OF WISCONSIN

FOND DU LAC CIRCUIT COURT.

Opinion by Justice Currie.

TRAYTON L. LATHROP, Appellant,

v.

JOSEPH D. DONOHUE, Respondent.

JUDGMENT—April 5, 1960

This cause came on to be heard on appeal from the judgment of the Circuit Court of Fond du Lac County and

was argued by counsel. On consideration whereof, it is now here ordered and adjudged by this Court, that the order of this Court of December 7, 1956, which promulgated the rules and by-laws of the State Bar of Wisconsin effective for a two year period, and the further order of this Court of December 22, 1958, which continued the State Bar of Wisconsin on a permanent basis, do not violate the Fourteenth amendment to the United States constitution and are constitutional. The Judgment of the Circuit Court of Fond du Lac County, appealed from in this cause, be, and the same is hereby, affirmed with costs against the said appellant taxed at the sum of One Hundred Twenty-five Dollars and No Cents ($125.00).

Justice Hallows took no part.

[fol. 59] [File endorsement omitted]

IN THE SUPREME COURT OF THE STATE OF WISCONSIN

TRAYTON L. LATHROP, Appellant,

v.

JOSEPH D. DONOHUE, Respondent.

OPINION—Filed April 5, 1960

Appeal from a judgment of the circuit court for Fond du Lac county: Russell E. Hanson, Circuit Judge. *Affirmed.*

Action commenced June 8, 1959, by Trayton L. Lathrop to recover the sum of $15 paid by him to the defendant Joseph D. Donohue under an alleged unconstitutional compulsion.

The material allegations of the complaint are as follows: The plaintiff was admitted to practice of law by the supreme court of Wisconsin in 1948 and since his admission he has practiced his profession at the city of Madison. The defendant is the treasurer of the State Bar of Wisconsin (hereinafter referred to as the "State Bar") which was integrated on a trial basis in 1956, by order of the supreme court of Wisconsin, and functions under the rules and by-laws of

such organization approved by further order of the same [fol. 60] court. This integration of the bar was continued in effect on a permanent basis by further order of such court entered December 22, 1958. Such rules and by-laws impose compulsory membership and the payment of annual dues upon all persons admitted to practice law and engaged in the active practice of law in the state as a requisite of such persons continuing in such active practice. On or about March 6, 1959, the plaintiff paid under protest to the defendant the sum of $15 to cover his annual dues to the State Bar for the calendar year 1959, and accompanied such payment with a letter which stated that such payment was made under compulsion of the by-laws of such organization requiring such payment, and that the plaintiff would hold the defendant personally liable for the amount so paid. The supreme court's order of December 22, 1958, insofar as it coerces the plaintiff to support the State Bar, is alleged to be unconstitutional on the ground that it violates the Fourteenth amendment of the United States constitution and art. I of the Wisconsin constitution.

The defendant demurred to the complaint on the following three grounds:

> "1. The court lacks jurisdiction over the subject matter of the action in that exclusive jurisdiction thereof is vested in the Supreme Court of the State of Wisconsin.
>
> "2. There is a defect of parties defendant in that the State Bar of Wisconsin is a necessary party.
>
> "3. The complaint does not state facts sufficient to constitute a cause of action."

The trial court filed a memorandum decision in which the facts and the legal authorities were carefully and comprehensively considered, and determined that the demurrer must be sustained on all three grounds. An order sustain- [fol. 61] ing the demurrer was accordingly entered. Under date of October 23, 1959, judgment was rendered dismissing the complaint upon its merits. From such judgment the plaintiff has appealed.

[fol. 62] CURRIE, *J.* This court has determined to consider the constitutional issue raised on its merits and not to dispose of the appeal upon procedural grounds.

While we are of the opinion that the learned trial court properly determined that the circuit court was without jurisdiction to pass upon the validity of an order of this court which regulates the practice of law, we will treat the action as though it had been originally and properly brought in this court. The reason for so doing is that this action is one *publici juris* in which we have had the benefit of most thorough and adequate briefs and oral argument upon the constitutional issue presented. Under such circumstances we deem it would work an injustice to dismiss the action and compel the plaintiff to commence a new proceeding in this court to relitigate the same issue.

The other procedural ground upon which the trial court sustained the demurrer to the complaint was that there was a defect of parties defendant. In so holding, the trial court determined that the State Bar is an indispensable party to this litigation under sec. 260.19 (1), Stats. However, we deem that there may be some merit to the plaintiff's contention that in order to rule that there is a defect in parties defendant it is necessary to decide the constitutional issue. This is because, if the orders of this court creating the State Bar an entity are void, then it has no standing which would require it to be made a party. We are satisfied that counsel for the defendant Donohue has so competently marshaled the facts and the law in support of the constitutionality of the orders creating the State Bar that its interests do not require that it be made a party. Both the trial court and [fol. 63] this court possess the power to have compelled, on the court's own motion, the impleading of it as a party defendant, if its interests were deemed to require that this be done, as an alternative to dismissal of the action because of failure of the plaintiff to have joined it as a party.

The plaintiff bottoms his contention, that the integration of the bar is unconstitutional, upon the thesis that such integration violates the First amendment freedoms of free speech, press, assembly, and petition which are inherent in the due-process and equal-protection-of-the-laws clauses of the Fourteenth amendment. He also claims that there is

a violation of these same freedoms as stated in various sections of art. I of the Wisconsin constitution. However, such provisions of the Wisconsin constitution are substantially the equivalent of the due-process and equal-protection-of-the-laws clauses of the Fourteenth amendment. *Boden* v. *Milwaukee* (1959), 8 Wis. (2d) 318, 324, 99 N. W. (2d) 156, and *Pauly* v. *Keebler* (1921), 175 Wis. 428, 185 N. W. (2d) 554. We are satisfied that if the orders creating and continuing the State Bar violate the provisions of art. I of the state constitution they also violate the Fourteenth amendment. We will, therefore, confine our consideration of the constitutional issue to whether there exists a violation of the Fourteenth amendment.

In *Integration of Bar Case* (1943), 244 Wis. 8, 11 N. W. (2d) 604, the argument was advanced that the statute enacted by the legislature (ch. 315, Laws of 1943), which provided for this court integrating the bar, violated the Fourteenth amendment. Mr. Chief Justice Rosenberry in his opinion for the court dealt with such argument at pages 41 to 44 thereof. It was there determined that an integration of the bar would not violate the Fourteenth amendment.

[fol. 64] While we might ground our decision of the instant case on this sound precedent authored by one of the great chief justices of this court, we choose not to do so. This is because the plaintiff has advanced some arguments that were not presented to the court when it previously considered the constitutional issue in 1943.

The plaintiff commences his argument with the sound premise that the right of any person to belong to an association embodies certain First amendment freedoms protected by the Fourteenth amendment. As the United States supreme court recently declared in *Bates* v. *City of Little Rock* (1960), —— U. S. ——, 80 Sup. Ct. 412, 416, 4 L. Ed. (2d) 480, 485:

> "And it is now beyond dispute that freedom of association for the purpose of advancing ideas and airing grievances is protected by the Due Process Clause of the Fourteenth amendment from invasion of the States. *De Jonge* v. *Oregon*, 299 U. S. 353, 364, 57 S. Ct. 255, 259, 81 L. Ed. 278; *N. A. A. C. P.* v. *Alabama*, 357 U. S. 449, 460, 78 S. Ct. 1163, 1170, 2 L. Ed. (2d) 1488."

This court held to the same effect in *Lawson* v. *Housing Authority* (1955), 270 Wis. 269, 274, 70 N. W. (2d) 605.

From this premise the plaintiff argues that the converse is also true, i.e., the right not to belong to an association is also a freedom protected by the Fourteenth amendment. In support thereof he cites the following statement from the opinion of the Maine court in *Pappas* v. *Stacey* (1955), 151 Me. 36, 116 Atl. (2d) 497, 500: "Freedom to associate of necessity means as well freedom not to associate. . . ."[1]

However, decisions of serious questions of constitutional law ought not to be grounded upon cliché.

The rules and by-laws of the State Bar, as approved by this court, do not compel the plaintiff to associate with anyone. He is free to attend or not attend its meetings or [fol. 65] vote in its elections as he chooses. The only compulsion to which he has been subjected by the integration of the bar is the payment of the annual dues of $15 per year. He is as free as he was before to voice his views on any subject in any manner he wishes, even though such views be diametrically opposed to a position taken by the State Bar.

The right to practice law is not a right but is a privilege subject to regulation. *Petition for Integration of the Bar of Minnesota* (1943), 216 Minn. 195, 12 N. W. (2d) 515, 518. As the Arizona court well stated in *In re Greer* (1938), 52 Ariz. 385, 81 Pac. (2d) 96, 98:

> "The right to practice law is not a natural nor constitutional one, in the sense that the right to engage in the ordinary avocations of life, such as farming, the industrial trades and the mercantile business is. It has always been considered as a privilege only, bestowed upon certain persons primarily for the benefit of society, and upon such terms and conditions as the state may fix. The final determination as to what these conditions are, and who has satisfactorily complied therewith, is, and always has been, in the courts before

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[1] In making such statement the Maine court was not referring to rights protected by the Fourteenth amendment, but was interpreting a state statute which provided, "Workers shall have full freedom of association . . ."

which the individual practices his profession, and from time immemorial such individuals have been considered essentially and primarily as officers of the court admitting them."

The only limitation upon the state's power to regulate the privilege of the practice of law is that the regulations adopted do not impose an unconstitutional burden or deny due process. *Schware* v. *Board of Examiners* (1957), 353 U. S. 232, 77 Sup. Ct. 752, 1 L. Ed. (2d) 796.

Mr. Chief Justice Rosenberry declared in the *Integration of Bar Case* (1943), *supra*, that the dues payable by a lawyer to an integrated bar imposed by state action are in the same category as an annual license fee imposed upon any occupation or profession which is subject to state regulation. This is also the holding of the Florida and Louisiana courts in *Petition of Florida State Bar Association* (Fla. 1949), 40 So. (2d) 902, and *In re Mundy* (1942), 202 La. 41, 11 So. (2d) 41. The fact that a license fee exacted by the courts [fol. 66] is not deposited in the public treasury but is disbursed by the court created agency to which paid, does not militate against the validity of such license fee. *Laughlin* v. *Clephane* (D. C. for Dist. Col. 1947), 77 Fed. Supp. 103.

The plaintiff grounds his argument, that the compulsory dues of the State Bar do impinge upon First amendment freedoms, on the fact that the State Bar does take a stand on legislation pending before the legislature. He points out that he personally is opposed to some of the legislation supported by it. Because of this he contends his rights guaranteed by the First amendment are violated because part of his dues money is used to support causes to which he is opposed.

Whatever activity in the legislative field in which the State Bar does engage is limited by its rules and by-laws promulgated by this court. Two of the standing committees which the board of governors is directed to establish by Rule 4 are the Committee on Administration of Justice and the Committee on Legislation. Secs. 4 and 9 respectively of the by-laws define the duties of these two committees and read as follows:

"Section 4. *Committee on administration of justice.* This committee shall study the organization and opera-

tion of the Wisconsin judicial system and shall recommend from time to time appropriate changes in practice and procedure for improving the efficiency thereof; and in that connection shall examine all legislative proposals for changes in the judicial system.

"Section 9. *Committee on legislation.* This committee shall study all proposals submitted to the Wisconsin Legislature or the Congress of the United States for changes in the statutes relating to the courts or the practice of law, and shall report thereon to the board of governors; and with the approval of the board of governors may represent the State Bar in supporting or opposing any such proposals."

This court takes judicial notice of the activities of the State Bar in the legislative field since its creation by this court in 1956. In every instance the legislative measures advocated or opposed have dealt with the administration [fol. 67] of justice, court reform, and legal practice. Neither the above-quoted by-laws nor the stated purposes set forth in Rule 2 for which the bar was integrated would permit the State Bar to be engaged in legislative activities unrelated to these three subjects. The plaintiff complains that certain proposed legislation, upon which the State Bar has taken a stand, embody changes in substantive law, and points to the recently enacted Family Code. Among other things, such measure made many changes in divorce procedure, and, therefore, legal practice. We do not deem that the State Bar should be compelled to refrain from taking a stand on a measure which does substantially deal with legal practice and the administration of justice merely because it also makes some changes in substantive law.

We are of the opinion that the public welfare will be promoted by securing and publicizing the composite judgment of the members of the bar of the state on measures directly affecting the administration of justice and the practice of law. The general public and the legislature are entitled to know how the profession as a whole stands on such type of proposed legislation. This is a function an integrated bar, which is as democratically governed and administered as the State Bar, can perform much more

effectively than can a voluntary bar association. Cf. *Petition of Florida State Bar Ass'n., supra.*

The plaintiff contends that the State Bar's legislative activities are the same as those of such voluntary bar associations as the former Wisconsin Bar Association and the American Bar Association. Such argument ignores the obvious and very material distinction that exists between the legislative activities of the State Bar and those of a [fol. 68] voluntary association. A voluntary association is free to take a stand on any proposed legislation in any field it deems desirable. This is not true of the State Bar which must confine its activities in legislative matters to those authorized by the rules and by-laws promulgated by this court. Insofar as it confines such activities to those authorized by the rules and by-laws, this court will not interfere or in any manner seek to control or censor the action taken, or to substitute its judgment for that of the membership of the State Bar. This was made crystal clear in our opinion in *In re Integration of the Bar* (1958), 5 Wis. (2d) 618, 625-627, 93 N. W. (2d) 601. Any other course would be abhorrent to our sense of devotion to the ideal of a free and independent bar. However, as we pointed out in our opinion in the 1958 *In re Integration of the Bar Case*, this court will exercise its inherent power to take remedial action should the State Bar engage in an activity not authorized by the rules and by-laws and not in keeping with the stated objectives for which it was created. If the lawyers of the state wish by group action to engage in legislative activities not so authorized they will have to do so within the framework of some voluntary association, and not the State Bar.

In the recent case of *Dulles* v. *Johnson* (2d Cir. 1959), 273 Fed. (2d) 362, the court had before it the question of whether bequests to certain New York bar associations were exempt from federal estate tax. While such associations were voluntary in character, their activities in legislative matters seem to have been similar in scope to those of the [fol. 69] State Bar of Wisconsin. The commissioner of internal revenue contended that the bequests were subject to tax because the associations were attempting to influence legislation and to carry on propaganda. However, the court ruled that the bequests were exempt and stated (p. 367):

"Moreover, the legislative recommendations of the Associations, insofar as these recommendations do not involve matters the responsibility for which has been entrusted to the Associations by the Legislature, are designed to improve court procedure or to clarify some technical matter of substantive law. They are not intended for the economic aggrandizement of a particular group or to promote some larger principle of governmental policy. These two factors lead us to the conclusion that the recommendations of the Associations concerning impending legislation are not such as to cause the forfeiture of charitable status under Section 812 (d)."

In other words, the court of appeals for the Second Circuit determined that these restricted legislative activities were in the public interest and did not destroy the exemption.

While the police power is generally considered an exclusive power of the legislature, it may be exercised by courts. *Petition of Florida State Bar Ass'n., supra.* In such cited case the court held that its exercise of inherent power to integrate the Florida bar constituted an exercise of the police power. We deem that the same is true of the 1956 and 1958 orders of this court integrating the bar of this state, and continuing the same, in order to improve the administration of justice. In situations where regulatory measures adopted by the states, or agencies thereof, pursuant to the police power, are attacked as infringing First amendment freedoms, the courts are required to balance the competing public and private interests at stake. *Barenblatt* v. *United States* (1958), 360 U. S. 109, 126, 79 Sup. Ct. 1081, 3 L. Ed. (2d) 1115; *National Asso. for Advancement of Colored People* v. *Alabama* (1958), 357 U. S. 449, 463, 466, 78 Sup. Ct. 1163, 2 L. Ed. (2d) 1488; and *Schneider* v. *Irvington* (1939), 308 U. S. 147, 161, 60 Sup. Ct. 146, 84 L. Ed. 155.

[fol. 70] When we attempt to balance the competing interests at stake in this action we find no regulation of, or interference with, any of the plaintiff's rights of free speech, assembly, or petition. The only challenged interference with his liberty is the exaction of annual dues to the State Bar, in the nature of the imposition of an annual license

fee, not unreasonable or unduly burdensome in amount, part of which is used to advocate causes to which he is opposed. However, this court in which is vested the power of the state to regulate the practice of law, has determined that it promotes the public interest to have public expression of the views of a majority of the lawyers of the state, with respect to legislation affecting the administration of justice and the practice of law, the same to be voiced through their own democratically chosen representatives comprising the board of governors of the State Bar. The public interest so promoted far outweighs the slight inconvenience to the plaintiff resulting from his required payment of the annual dues.

Furthermore, the State Bar is a public and not a private agency. In the annotation entitled, "State bar created by act of legislature or rules of court; integrated bar," 114 A. L. R. 161, the author states:

> "While the statutes or court rules under which they have been organized differ to some extent, integrated bars have the common characteristics of being organized by the state or under the direction of the state, and of being under its direct control, and in effect they are governmental bodies."

State Bar v. *Superior Court* (1929), 207 Cal. 323, 278 Pac. 432, 434, and *In re Gibson* (1931), 35 N. Mex. 540, 4 Pac. (2d) 643, 653, support the above-quoted statement.

In 1951 the Wisconsin legislature created the Judicial Council. Of the present sixteen members thereof, four are chosen by the State Bar as a result of a secret ballot of [fol. 71] its active members, three directly for such position and the fourth ex-officio because of having been elected president-elect of the organization. Such judicial council has been expressly authorized by the legislature to recommend to it "changes in the organization, jurisdiction, operation and methods of conducting the business of the courts." Sec. 251.181 (2)(f), Stats. Thus it advocates adoption of legislation of the same category on which the State Bar voices a position. The council's activities are financed by an appropriation of the legislature and thus is supported out of the state's tax revenues. We are satisfied that the plain-

tiff as a taxpayer could not successfully challenge the constitutionality of the disbursement of public funds derived from taxes to support the activities of the judicial council merely because he was opposed to certain proposed legislation which it recommended be passed by the legislature. We can perceive no valid basis for distinguishing that situation from the one here confronting us insofar as constitutionality is concerned. The State Bar is a public agency the same as the Judicial Council. One has been created by the court and the other by the legislature but each was created by state action as a state agency to serve a public purpose.

While the plaintiff does not challenge the constitutionality of the purposes, other than legislative, for which the State Bar expends the annual dues collected from its members, we deem it advisable to set forth in an appendix to this opinion an analysis of such activities and the public purpose served thereby. Such analysis is not based upon the allegations of the complaint but upon facts of which this court takes judicial notice.

A considerable portion of plaintiff's brief is devoted to an impassioned argument that the integration of the bar is but the initial step which will lead to fascist syndicalism of the type rampant in Italy during Mussolini's years of [fol. 72] power. As plaintiff points out, the chief evil of such a system was that the syndicates usurped and exercised the powers which in a democracy would be exercised by parliament and the courts, with resulting curtailment of the liberties of the people. That integration will lead to fascist syndicalism is an argument addressed to the policy making functions of the court, which would be material on the issue of whether or not to direct that the bar be integrated, but is hardly pertinent with respect to the issue of constitutionality. It is the constitutional issue alone with which we are here concerned.

Some of the states which have had long years of experience with an integrated bar, and the years in which such integration was accomplished are:

North Dakota	— 1921
California	— 1927
South Dakota	— 1931
Washington	— 1933
Missouri	— 1934

If bar integration were to lead to syndicalism one would think that some start in this direction at least would be discernible by now after the lapse of a period in excess of twenty-five years that these five states have had integrated bars. The fact that no such trend has occurred after such long experience with an integrated bar is to us convincing proof of the groundless nature of plaintiff's fears.

Mr. Justice Holmes, in his famous dissent in *Panhandle Oil Co.* v. *Knox* (1928), 277 U. S. 218, 223, 48 Sup. Ct. 451, 72 L. Ed. 857, after referring to Chief Justice Marshall's often quoted dictum that the power to tax is the power to destroy, declared, "The power to tax is not the power to destroy while this court sits." This prompts us to observe that any usurpation on the part of the State Bar of the powers of either the legislature or the courts will not occur so long as this court sits. Without such usurpation of leg- [fol. 73] islative or judicial power there can be no fascist syndicalism.

It is our considered judgment that the orders of this court integrating the bar, and continuing such integration, violate none of the First amendment freedoms of the plaintiff as embodied in the due-process and equal-protection-of-the-laws clauses of the Fourteenth amendment.

While we have considered and resolved the constitutional issue as if this were a proceeding originally brought in this court, our mandate also will affirm the judgment below.

By the Court.—The order of this court of December 7, 1956, which promulgated the rules and by-laws of the State Bar of Wisconsin effective for a two year period, and the further order of this court of December 22, 1958, which continued the State Bar of Wisconsin on a permanent basis, do not violate the Fourteenth amendment to the United States constitution and are constitutional. The judgment appealed from is affirmed.

[fol. 74] APPENDIX

Major Activities of State Bar of Wisconsin Post-Graduate Education of Lawyers.

The most extensive activities of the State Bar are those directed toward post-graduate education of lawyers. There is a great need for this because of the rapid changes and

new developments that have occurred in the field of law subsequent to the admission to practice of a large percentage of the lawyers of the state. This trend shows no signs of abating. In order that lawyers be qualified to properly represent clients such post-graduate education is essential.

The State Bar provides such post-graduate education through its annual and separate mid-winter meetings, its regional meetings, its annual tax school, and its publication of the Wisconsin Bar Bulletin. The annual and the mid-winter meetings of the State Bar are each of at least two days' duration and are largely devoted to the delivery of papers on technical legal subjects of an instructive nature. The same is true of the one day regional meetings annually held throughout the state. At the annual two-day tax school the papers delivered are confined to the fields of taxation. Many of these papers delivered at these various meetings are later published in the Wisconsin Bar Bulletin so that they will be available for instant reference by all members of the bar of the state. Each member of the State Bar receives a copy of the Wisconsin Bar Bulletin by mail as issued, it being published bi-monthly.

Post-graduate education of lawyers is in the public interest because it promotes the competency of lawyers to handle [fol. 75] the legal matters entrusted to them by those of the general public who employ them.

Public Relations.

The field of endeavor carried on under the name of "public relations" would better be termed "public service." The chief activity carried on in this field by the State Bar is the preparation, publication, and distribution to the general public of pamphlets dealing with various transactions and happenings with which laymen are frequently confronted, which embody legal problems. Alternative courses of action are sometimes set forth and the advantages and disadvantages of each explained. Where there is danger that a layman might be likely to overlook some positive requirement of the law, such requirements are pointed out. Among the titles of such pamphlets are: "It May be Your Turn Next—What to do in Case of an Auto Accident"; "Have You Made

a Will"; "Sound Steps in Purchasing a Home"; and "Joint Tenancy—Boon or Boomerang." Banks and trust companies, local bar associations, and others purchase these pamphlets from the State Bar at slight advance above the cost of publication in order to cover boxing and mailing expense. The statement of receipts and disbursements of the State Bar for the calendar year of 1959 shows receipts of $2,748.27 from the sale of pamphlets which receipts should be credited against a total expenditure for "Public Relations" of $2,743.55.

Another activity of the State Bar in this field consists of preparation of informative articles on legal subjects which are offered for publication to the newspapers throughout the state, and are published under the heading of "The Law and You."

[fol. 76] A further public relations activity is the preparation and distribution of news releases covering the activities of the State Bar, such, for example, as the observance throughout the state of "Law Day, U. S. A."

Discouraging Unauthorized Practice of the Law.

One of the standing committees of the State Bar is that of Unauthorized Practice of Law. The primary purpose of such committee is to protect the public from incompetent laymen attempting to offer or perform legal services which they are not competent to render. This is a constant program since numerous trades and occupations keep expanding their services and frequently start offering services which constitute the practice of the law. As a result of integration the income from dues has enabled the State Bar to employ an additional lawyer on its staff whose major assignment is to investigate complaints made with respect to instances of unauthorized practice of the law, and to cause any unauthorized practices so discovered to be discontinued through persuasion or legal action.

Establishment of a Minimum Fee Schedule.

The State Bar recently adopted a recommended minimum fee schedule covering legal services. The present economic plight of the lawyers in this country is one which has

disturbed the bench and the bar. Able young men who otherwise might be attracted to entering the legal profession are being discouraged not to because of this. Lawyers already in the profession because of insufficient incomes are caused to forsake the practice of law for more financially attractive fields of endeavor. According to statistics gathered by the Economics of Law Practice Committee of the American Bar Association during the period of 1929 to 1951 the net income of lawyers increased but 58 per cent, while for the same period that of dentists rose 83 per cent and that of physi- [fol. 77] cians 157 per cent. During the same period the net income of employees of all industry increased 131 per cent. During 1954 the net income before taxes of one-third of all practicing lawyers of the nation was less than $5,485.

The quality of legal service which will be rendered to the public is likely to suffer if young men of ability are dissuaded from entering the profession because of the difficulty of securing an adequate financial reward to enable them to properly support themselves and their families. A minimum fee schedule which realistically recommends charges for legal services that are in keeping with the increased cost of living that has taken place since World War II, should have a tendency toward remedying this condition. Such a schedule also serves a further public purpose because it provides a guide for the basing of legal charges that tends to prevent overcharges as well as undercharges. Lawyers, who are true to their oath of admission, recognize that adoption of a recommended minimum fee schedule does not relieve them from the duty of serving the poor without compensation, or of reducing the charge if the normal charge would be unduly burdensome to a client of limited means. Furthermore, a lawyer's charge for services, even when based upon the recommended schedule, is always subject to the courts' determination of reasonableness.

Legal Aid.

Another of the standing committees of the State Bar is the Legal Aid Committee. This committee has done effective and noteworthy work to encourage the local bar associations of the state to set up legal aid systems in their local com-

munities under which legal services are rendered without charge to the indigent in the need of the same. Such committee has also outlined recommended procedures for establishing and carrying through such systems of providing legal aid.

[fol. 78] *Investigation and Adjustment of Grievances.*

The State Bar has created grievance committees for each of the nine districts into which the state has been divided for election purposes. These districts coincide with the Congressional districts of the state except for combining the two Congressional districts of Milwaukee county into one district. While the supreme court has delegated none of its power to punish disciplinary infractions, these State Bar grievance committees perform a valuable function in investigating and adjusting grievances filed against lawyers of the district in which the particular grievance committee functions. Prior to integration of the bar most of such grievances were investigated by the paid counsel of the Board of State Bar Commissioners, and the cost thereof was defrayed from the general tax revenues of the state. Since integration most of such work of investigation of grievances has been done by the grievance committees of the State Bar. As a result there has been a saving to the general taxpayers of the state. One evidence of this is that the Board of State Bar Commissioners is requesting a decrease in its appropriation from the state of $800 less for the coming biennium than was appropriated in the present biennium.

Legislative Activities.

In addition to the legislative activities of the State Bar to which the plaintiff objected, and which are discussed in the opinion, the State Bar performs the further function of promptly publicizing to the lawyers of the state pending and adopted legislation affecting legal practice. Acts lengthy in scope, such as the Family Code and the Act Extending [fol. 79] the Jurisdiction of the Courts Over Non-Resident Persons and Corporations, are analyzed and explained by articles published in the Wisconsin Bar Bulletin. Such activities enable the lawyers to better serve their clients.

[fol. 80] [File endorsement omitted]

IN THE
SUPREME COURT OF THE STATE OF WISCONSIN
August Term 1959—Case No. 254

TRAYTON L. LATHROP, Appellant,

vs.

JOSEPH D. DONOHUE, Respondent.

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES—Filed May 5, 1960

I. Notice is hereby given that Trayton L. Lathrop, the appellant above named, hereby appeals to the Supreme Court of the United States from the whole of the final judgment of the Supreme Court of the State of Wisconsin which (a) adjudicated that the order of said court of December 7, 1956, which promulgated the rules and by-laws of the State Bar of Wisconsin effective for a two year period, and the further order of said court of December 22, 1958, which continued the State Bar of Wisconsin on a permanent basis, do not violate the Fourteenth Amendment to the United States Constitution and are constitutional, and (b) affirmed the judgment of the Circuit Court for Fond du Lac County, Wisconsin, which latter judgment dismissed the appellant's complaint in this action upon its merits; said final judgment of the Supreme Court of the State of Wisconsin having been entered in this action on the 5th day of April, 1960.
[fol. 81] This appeal is taken pursuant to 28 U.S.C. section 1257 (2).

II. The clerk will please prepare a transcript of the record in this cause, for transmission to the Clerk of the Supreme Court of the United States, and include in said transcript the following papers in this action:

(a) Certificate of Service of Summons and Complaint

(b) Summons

(c) Complaint

(d) Demand for Change of Venue

(e) Demurrer of Defendant

(f) Order to Show Cause and Affidavit in Support of Motion for Change of Venue

(g) Consent of Plaintiff to Change of Place of Trial dated July 15, 1959.

(h) Decision of the Circuit Court for Fond du Lac County on Demurrer dated October 9, 1959.

(i) Order of Circuit Court for Fond du Lac County sustaining Demurrer dated October 23, 1959.

(j) Judgment of Dismissal of Circuit Court for Fond du Lac County dated October 23, 1959.

(k) Notice of Appeal dated November 19, 1959.

(l) Decision and Judgment of the Supreme Court of the State of Wisconsin entered in this action on April 5, 1960.

(m) This Notice of Appeal to the Supreme Court of the United States.

III. The following question is presented by this appeal:

Do the orders and rules of the Supreme Court of [fol. 82] the State of Wisconsin referred to in paragraph I of this Notice of Appeal and the rules and by-laws which were promulgated thereby deprive the appellant, who is a native of the State of Wisconsin and a resident licensed practicing attorney in said state and has no income outside of that received from the practice of law, of his rights of freedom of association, assembly, speech, press, conscience and thought, or of his liberty or property without due process of law or deny to him equal protection of the law or

otherwise deprive him of rights under the Fourteenth Amendment of the Constitution of the United States by compelling him, as a condition to his right to continue to practice law in the State of Wisconsin, to be a member of and financially support an association of attorneys known as the State Bar of Wisconsin, which association functions substantially the same and carries on substantially the same work as voluntary associations of attorneys, and, among other things, uses its property, funds and employees for the purpose of influencing a broad range of legislation and public opinion; and, therefore, are said orders, rules and by-laws, insofar as they coerce the appellant to be a member of and support said association, invalid on the ground that they are repugnant to the Constitution of the United States?

Dated this 5th day of May, 1960.

Trayton L. Lathrop, Appellant, Room 305, 122 West Washington Avenue, Madison 3, Wisconsin.

Leon E. Isaksen, Of Counsel for Appellant, Room 305, 122 West Washington Avenue, Madison 3, Wisconsin.

[fol. 83] Proof of Service (omitted in printing).

[fol. 84] Clerk's Certificate to Foregoing Transcript (omitted in printing).

[fol. 85]

SUPREME COURT OF THE UNITED STATES

No. 200, October Term, 1960

TRAYTON L. LATHROP, Appellant,

vs.

JOSEPH D. DONOHUE.

ORDER POSTPONING CONSIDERATION OF JURISDICTION UNTIL HEARING ON MERITS—October 10, 1960

Appeal from the Supreme Court of the State of Wisconsin.

The statement of jurisdiction in this case having been submitted and considered by the Court, further consideration of the question of jurisdiction is postponed to the hearing of the case on the merits. The case is set for argument immediately following No. 4.

October 10, 1960